



## ORIENTAL PLANNING BOARD MINUTES

Wednesday, March 22, 2023 (Moved from March 15) 3:00PM  
Oriental Town Hall – 507 Church Street, Oriental, NC

### CALL MEETING TO ORDER AND ESTABLISH QUORUM

Meeting was called to order at 3:00PM with Chairman Rahm, and Member Quigley, Member Stone and Member Crothers. LUA Miller was present. Commissioners Frank Roe, David White, and Allen Price were also present. The room was filled to capacity with those interested in today's agenda. Member DeWeese absent.

**Agenda Approval:** Vice Chair Quigley makes the MOTION to approve the Agenda with the change that the New Business go before Old Business in order to accommodate the crowd. Member Stone seconds. 4-0

**February 15, 2023 Minutes for approval.** Member Crothers makes the MOTION to approve the minutes. Vice Chair Quigley seconds. 4-0.

### NEW BUSINESS:

- Rezoning request: M/M Pawlikowski filed a rezoning request with the Land Use Administrator on February 14, 2023. This is the first pass by the Planning Board and the result today will be simply information gathering and forwarding a request to the Town Board for setting a Public Hearing at their earliest convenience.
- Chair Rahm says she would like to take comment and suspend the normal 3 minute restriction on Public Comment.
- Mr. Neil Whitford: attorney for the Pawlikowskis. Strength is in local government when National and State Govt does not function- we appreciate it. Present AXL, LLC petition to rezone from R-1 to MU at 1216 Lupton. Main operation at 1218 Lupton, also at 1216 where large boats are often on stands. Sailcraft as a Boatyard defined in GMO in section 251. Grandfathered zoning to allow storage and parking on the R-1 lot, but does not allow work to be done on that lot. The storage only restriction is not working, and request is to settle rezoning once and for all. There is no marked boundary between those properties. These two lots owned and operated by M&J Marine and AXL. 1214 is also owned by them- house owned and occupied by their mother. Aerial tax map in presentation. Outlined properties with street addresses. Have owned since 2018. Multiple written statements attached confirming that it has been part of the marina operations for an extended period- especially note from Billy Creech. Have worked on boat at 1216 for forty years. Other letters are similar. Two questions- Was it put in the wrong zoned from the beginning, and also, should it have been grandfathered completely in 2018? Realized an SUP would be needed as well. It will be filed before PB's April meeting. Status quo at 1216 is not in anyone's interest. Large boats need frequent maintenance and work. A lot of that work can only be done on land. Everything from rigging to electronics to cleaning must be done. Also- some work is done by owners and contractors. Boatyard may not be aware of ongoing work if on the hard. Page 16 starts photographs- boat storage. Best

determination of boundary somewhere near the bow of the pictured boat. P 17 taken near the creek from 1218 toward 1216. Boundary line not marked nor clear. Third photo toward creek- 4 large sailboats on stands- mast on sawhorses, parked truck. 1216 is an integral part. Question of spot zoning- this is not that- the contiguous lot is already MU, also across creek is Deaton/Zimmerman zoned MU. Request only slightly expands this area. Compatibility needs to be addressed. Compliant with existing plan. Under policy statements and exhibit 4, "Town shall investigate ways to increase working waterfronts." Always concerns about precedents. Must be considered case by case. Little concern about precedent. 1216 was used as boatyard operation prior to zoning. 1216 has never had a residence on it. In terms of support, letters attached in pgs 16-24. Reads letter to Manager Miller concerning rezoning from residents at 1204 Lupton (Jordan) in support.[six lots up from 1216].

- Chair Rahm notes this is not a quasi-judicial meeting, just information gathering. May finish discussions in April meeting. We will not rush through the process. No swearing in, but do capture names and addresses. Operating under section 238 today- PB role in the request process. Will not limit time to normal 3 minutes.
- Jean White- 100 Gull Circle (neighbor within 150 ft) 2 boat slips in Tarpon Creek HOA- opposed as admin of Tarpon owners assoc.
- Karen Parker-103 Gull Circle on Tarpon Channel- understood the property never designated as putting boats on property. Wondered when the property was purchased if it wasn't surveyed- those lines should have been very clear. Manager notes that there was a violation in 2019 issued and Mgr met with Mr. Pawlikowski- it was clear then the property line- at that point it was clear then. Would think that a survey would have been required, but that is not the Town's issue. They bought 3 contiguous properties, so survey may not have been as important. Ms. Parker- concern about environmental contamination. Mgr Miller: as attorney stated, any use requiring SUP has opportunity to attach conditions that prevent those issues.
- Ceri Ann Lewis: Dockmaster at Oriental Harbor Village Marina. 518 S Water St. 110 owners in assoc. frequently run into people looking to have work done. Space to have work done in a specific timeframe is hard to get. Property in question has been occupied by boats- in favor of rezoning request.
- Jennifer Pawlikowski: 55 Boathouse Rd.-owners. Mother lives in the house. When we came in- did not know that the property was misrepresented. Rushed to get information settled in 2018 to get things settled. No idea what storage and parking only impacts the business. Alan Arnfast [previous owner] worked on that lot the entire time. In the time since, put in powerwashing pad, recycling, don't want vioations. Worked with Deatons to purchase and install for savings. There was abandoned property on the lot- cost a fortune to get rid of. We do not let anyone come in to put us in a position to be in violation. Think it is reasonable and fair that we be able to do all things associated with the boatyard on that lot.
- Ian Davis- 28 East Cove Way -lives in River Dunes. Moved here in 2014. Boat was here in 2014 and the new operation is night/day from previous owner.
- Vicki Davis: 28 East Cove Way- also lives around Oriental-support what the Pawlikowskis are trying to do.
- Emmitt Gibson: 552 Homestead Rd. live in Pamlico County, not Oriental for 14 years- we were boaters – looking for big water. Difficult to find a good boatyard. Never enough space when there is a hurricane. Jobs and economy dependent on boatyards. Supports rezoning.

- Eric Dammeyer: 1116 Link Lane, boat on channel across from boatyard. Arrived in 2010. That part of that operation was quiet. There is a lot of variation in what can come out noise-wise. We have called for boats blocking egress and they were very cooperative. Wife and him opposed to rezoning because of noise potential.
- Joe and Barbara McGovern: 104 Gull Circle- opposed- concerns about environmental effects, concerned about noise, expansion/sprawl of use/sale of property to another boatyard owner.
- Arthur Halpern: 306 Whittaker Point Rd. 2012-2014 built boat on the property. Put up a large building to do that- no complaints. In favor of the rezoning.
- Chair Rahm notes we have complaint-based enforcement- if no complaints on unauthorized use, we may not see it for some time.
- Erich Hubar: 82 Salter Dr, Arapahoe- worked for Arnfast, now works for Pawlikowskis, night and day ownership- purchases to mitigate impact to environment, filters, hepa filters. Currently turning down DIY folks for space. Employees are benefitting.
- Chair asks if they are a Clean Marina? We could help with that. A lot of boatyards being gobbled up by national entities and then the rates go through the roof.
- Question from the floor- do you take DIYers? Henry has yard next door, a lot of DIYers end up there.
- Butch Rasmussen: 306 Mildred- former yacht broker- big part is service- lots of people getting out because of service. In support of application
- Henry Frazier: 2105 White Farm Rd- Owns property next to- a lot of bats- policy is to not turn anyone down- try to take all boats- largest tenant- over half lot is parked storage, DIYers. Been going well, would like to continue so that everyone is getting service they need.
- Billy Creech: 336 Blackwell Point Rd- owners of Ray's Creekside Marina. Didn't know there were separate lots until this came up. Thankful for these people- can't sand a boat unless you use a vacuum sander- great improvements. Want to see these kinds of people working at water's edge. I support it.
- Chris Zeilinski speaking for his parents at 102 Gull Circle: We share neighbors concern and oppose the rezoning.
- Lynn Robinson- Oyster Point- I don't live in Oriental. The Pawlikowskis donate annually to fire dept and am here to support their petition.
- Adam Lassen: 595 Homestead: on behalf of the applicant- bought a boat and had it brought to them- they do excellent work- in favor of rezoning.
- Chris Daniels: 1111 Broad St. Owner of Silos, support local businesses- important that they use that piece of property. In favor of the rezoning.
- Beth Frazer: 1103 Neuse Dr- hard on businesses, we need to take care of businesses. There are systems in place to address concerns. Change is constant. Be forward thinking. Successful businesses give back to the community. Support the application.
- Meredith Bailey: 1405 Tosto- renter- around the corner from boatyard. Enjoys the clinking mast metal and it is soothing. Been here 3 years- appreciate it and in favor.
- Donna Creech- 336 Blackwell Point Loop Rd.- have worked on that property, been going on a long time. In support of the application.
- Blair Cooper: 919 Midyette St- Triton Yachts- works with Sailcraft. Ensures when we have a customer, we can get them in over there. In support.
- Breena Litzenberger: Inner Banks Sail and Canvas- Oriental residents- small businesses work together- in favor of rezoning.

- Jennifer Rodriguez: local charter captain- welcomed here with open arms to this awesome town- in support. BS in Marine Studies- while we are concerned with sprawl-this is just what it has been used for. This is reasonable.
- Roger Huch: Maritime Drive in Oriental- supporting this request as customer, vendor. This is more an administrative change. Has without objection been used this way for decades. Grandfathering granted a certain amount of use not consistent with R-1.
- Chair Rahm notes this is a political decision, not a burden of proof. Going through the package assembled for the Planning board.
- Manager Miller: PB's first pass, information gathering- all of today's remarks will be forwarded to the Board for consideration. They will leave this meeting with a recommendation to the Town Board to schedule a Public Hearing, notification of all property owners within 150 ft, sign posted on the property. Town Board will likely set the Public Hearing for May 2. PB will meet April 19 and work on their consistency statement. CAMA plan was updated and sent to CAMA, Comp plan is next on their list. It is not a quasi-judicial hearing- meaning- nobody needs to be sworn in, there is no burden of proof, it is totally up to the Board of Commissioners. If/when approved, an SUP must be put forth for the use as a boatyard. At that time, the Town Board can impose restrictions on the uses- for example, BMPs for Marinas, working toward Clean Marina status, limiting hours of noisy activity. Even if DIYers are on the property, it is the owner's property and they are responsible for activity on their property. Anybody speaking at that- will need to be sworn in. Anything against one of the seven items, must be EVIDENCE based- juried, published studies or violations, record of failure- to prove it is not a good public use.
- Slides with statutes, spot zoning does not apply, R-1 uses vs MU uses. Rezoning history of the property, minutes concerning rezoning attempts- once in 2003 and once in 2018. 1998 GMO imposed- owner [Denmark] did not show up. In 2003 Mr. Arnfast did not show up for the hearing- Board tabled. In 2018 when the Pawlikowskis were trying to purchase, this is where the entire issue began. PB recommendations in 2018, photos of lot from 1993- today. All photos dated. Shows parking and storage through 2008-2014 poor quality pictures. Small building needed to be removed at sale. Previous application, noted parking and storage grandfathered during the process. Notes that the clients agree on parking and storage. PB needs to look closely at the previous consistency statement for similarities/differences. Member Crothers asked about the building on the lot- Ms. Pawlikowski notes it was put up for Mr. Halpern. Building was left for Mr. Arnfast to use.
- Chair Rahm allows for the room to clear prior to going to other business.

## OLD BUSINESS

- **CAMA Land Use Plan**-Public Hearing was conducted and CAMA has sent back requested corrections. Text on pages 12-13 needs to match FLUM. Easier to change the text than the map. We can do this offline and gather the correct text. Categories in the text do not match the categories on the FLUM legend. Chair Rahm asks what do the categories need to be? They need to match the legend. **Julie offers to work with Allison to clean this up and redistribute.**
- **Comprehensive Land Use Plan:** Fillable form sent out by Town is NOT anonymous- 179 responses to Town Dock. Town has received 26 electronic responses and 2 on paper. Over 200 responses are statistically significant. Healthcare, recreation, interesting responses. Important not to rush through this one either. Anticipate where we want to go in the future.
- **Compliance forms:** 2 new residences

Compliance:

Carabetta	2/21/2023	2023-03	compliance	6023 Dolphin Rd	Y	2/21/2024	new SFR
Fiegenbaum	2/28/2023	2023-04	compliance	505 Audubon	Y	2/28/2024	new SFR

Fiegenbaum has resubdivided 1lot into 2, building on one of the two. LUA goes through Pamlico GIS to show the PB the lots in question. Notes that there are several on the desk now awaiting signature. Short discussion on compliance setbacks cheat sheet. A lot of questions by developers. The TOWN does not have minimum square footage. SOME subdivisions DO. HOA at Sea Vista- if active, would have a case against the rezoning. The building on 1216 had to be removed because the building was not permitted, and an accessory structure is NOT allowed in an R-1. Member Crothers noted sounded like the Pawlikowskis had terrible disclosure. LUA Miller noted it came to her attention when the mortgage company asked to confirm it was 3 MU lots- she could NOT confirm that. That's when things started to unravel.

Commissioner White asks about rezoning- so if the rezoning goes through and then grant the SUP- with conditions- does that go with the property? YES- it is filed with the Register of Deeds and moves with the land. Commissioner Roe asks about SUP- can we wrap it up tight enough? You can make it consistent with your noise ordinance. Some activity can only be done close to the shop. DIYers can sand all day long- without vacuum. The owner is responsible for what happens on the yard. Commissioner Roe is concerned about "creep". Nothing other than storage and parking was raised in the 2018 request. Ms. Pawlikowski ABSOLUTELY was not given all the information that she should have had at the time of sale. This is NOT legal precedence. Each rezoning is an individual decision- every lot has independent circumstances. Making this decision does not mean the next request means you have to allow it if you allow this. Chair asks if we could require buffer of landscaping. Raised issue of landscaping at Iceman. He followed Dr. Bob saying it was OK to plant behind. Planning Board required front buffer. Tom Stone notes that we need to do the right thing for each lot as it comes up because there is no legal precedent according to legal advice, so each situation stands on its own.

LUA shows photo of fence argument between neighbors- situation not covered by the GMO. House is nonconforming existing. Fence of next door neighbor leaves very small space to nonconforming house. CANNOT tell him that he cannot use all of his own property.

Chair Rahm thinks we need to be reading through CAMA and Comp plans as related to the rezoning plan. Might want to look at restrictions to be put on Fulcher's SUP request that was withdrawn- they were fairly significant.

- **ADJOURN:** asks for a MOTION to adjourn. Tom Stone makes the MOTION. Vice Chair Quigley seconds. 4-0. Meeting adjourned 5:25PM

**Next Meeting scheduled for – 3:00PM April 19, 2023**

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Julie Rahm, Chair

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Diane H. Miller, Clerk to the Board/LUA