

OGUNQUIT PLANNING BOARD MINUTES MONDAY MARCH 14, 2016

PUBLIC HEARINGS

- 1. STEVEN GREENBERG – 96 Grasshopper Lane – Map 8 Block 32 – Residential (R) and Shoreland Limited Residential (SLR) Districts. Site Plan Review for a post 1930 Structure. Application to construct a 6’ tall, 68’ long, solid board fence in the Shoreland Limited Residential District.**

Ms. Freedman recused herself and left the auditorium.

Geoff Aleva from Civil Consultants addressed the Board and summarized the proposed project. He introduced Robbie Woodburn the Applicant’s Landscape Architect.

Ms. Woodburn stated that along the southern line of the property there is a buffer of Norway Maple Trees. Underneath these trees there was a thick grove of invasive species which has been removed. This left a void which needs to be filled to provide privacy for both the Applicant and the abutter. The proposal is for a limited section of six foot high board fence between the two residences. She noted that there is precedent for this on the other side of the abutter’s property where there is already a six foot tall fence. There are also other six foot tall fences in the area.

Ms. Woodburn cited the Zoning Ordinance which disallows fences over four feet in height, or that block the view of the water, however Table 702.1 says that fences that do not meet the criteria for Section 8.6, which is what they are requesting, are a permitted use with Planning Board review.

Ms. Woodburn informed the Board that Norway Maples have a very dense root matt; they suck up all the available ground water and nutrients leaving other plants at a disadvantage. Thus with the planting of a hedge instead of a fence, the hedge probably would not thrive and would not provide an effective buffer.

Ms. Woodburn argued that the intent of the ordinance is to limit fences which block the view of the water or are out of scale. The applicant’s proposed fence will not block the view and other six foot high fences in the neighborhood prove that it would not be out of scale.

Mr. Wilkos asked if there was anyone else who wished to speak for, or against, this application. There was no one and the Public Hearing was closed at 6:08 p.m.

Ms. Freedman rejoined the Board.

- 2. DAVID GIARUSSO – 661 Main Street – Map 13 Block 49 & 50 – General Business District 2 (GBD2). Site Plan Review for change of use from restaurant accessory parking area to paid parking lot.**

Geoff Aleva from Civil Consultants addressed the Board. Mr. Aleva pointed out the moveable booth for the collection of money. He noted it has been pushed back to prevent stacking of cars out on Route One who are waiting to pay and park. This booth will be removed when the restaurant is open.

Mr. Wilkos asked if there was anyone else who wished to speak for, or against, this application. There being no one the Public Hearing was closed at 6:10 p.m.

3. OGUNQUIT WATERFRONT ASSOC. /PHILIP CAVARETTA –107 Perkins Cove Road - Map 3 Block 71-72-73 – Shoreland General Development 2 (SGD2). Site Plan Review for change of use from Type 1 to Type 2 Restaurant and construction of a 22'x16' deck and egress on a post 1931 structure.

Attorney Matthew Williams, representing Abutter Laurent (105 Perkins Cove Road) addressed the Board. Mr. Williams noted that Mr. Laurent's opposition is to the addition of the 2nd floor outside dining deck. His opposition is not to the fact that there is a restaurant next door to him, which he can do nothing about.

Mr. Williams distributed a letter to the Board (a copy of which will be maintained in the applicant's file) wherein he brought up three issues:

Failure to correctly locate the setback from the normal high water line. He noted that the application indicates this project as being in the Shoreland General 2 (SG2), which requires a 50 foot setback from the ocean as noted in Table 703.1 of the Zoning Ordinance. He went on to note that the setback from the ocean is defined in Article 2 as the minimal horizontal distance from the normal high water line. Mr. Williams pointed out that the normal high water line is defined as ... in the case of land adjacent to tidal water the normal high water line shall be considered to be the maximum spring tide levels as identified in the tide tables published by the National Ocean Service Highest Annual Tide (HAT), as determined by a land surveyor based upon the nearest USGS Bench Mark. Mr. Williams noted that the January 12, 2016 survey submitted by the Applicant indicates that the railing of the proposed deck will be almost on the fifty foot setback line. He also pointed out that the survey notes (Notations #11 and 12) that the high water line was not located on the face of the earth as required by the Ordinance. Mr. Williams questioned the accuracy of the HAT line because the line was not determined by an onsite surveyor using the nearest USGS Bench Mark.

Mr. Williams' second issue is the applicant's failure to meet the buffering requirement. He referred to the Code Enforcement Officer's Memo to the Board dated January 29, 2016. Mr. Williams noted that the Applicant's attempt to meet the buffering is by using the existing vegetation and fence. He stated that the existing vegetation doesn't go high enough to shield the commercial use from the Laurent residential use. Mr. Williams noted that most of the vegetation, and the entire fence, are on Mr. Laurent's property. He suggested the buffering requirement might not be able to be met. Mr. Williams also noted that there is no buffering on the other side of the restaurant building. The result of the inadequate buffering will be an increase in noise, and a loss of privacy which will have a negative impact on the Laurent's property.

Mr. Williams' third concern is whether or not the deck will be located in the Resource Protection District (RPD). He questioned the Code Enforcement Officer's position that Article 1.3.D.5 exempts areas in the SG2 from inclusion in the RPD. He noted that the Town GIS Maps and the Zoning Map both indicate the proposed deck will be in the RPD.

Mr. Williams confirmed that the Laurent property is currently being used as a residence and it required adequate buffering from MC Perkins' new proposed outdoor dining use. He questioned whether adequate buffering is possible.

Phil Cavaretta responded that during the summer months the bamboo grows very high, higher than the 8' fence, and it will effectively buffer the abutting property. The current fence was put in place with an agreement with the Laurents and an exemption from the Town for the eight foot height. He agreed to add more vegetation however he doesn't believe that it will accomplish any more than what is already growing on site. Mr. Cavaretta also pointed out that the beach behind the Laurant's and the Restaurant is a public beach where the public often walks.

Mr. Cavaretta informed the Board that a surveyor produced a new survey that morning which he will distribute to the Board. This new survey was done on site using the nearest USGS Bench Mark and meets the Ordinance requirements.

Mr. Wilkos asked if there was anyone else who wished to speak for, or against, this application. There being no one the Public Hearing was closed at 6:28 p.m.

4. WILD BLUEBERRIES RESTAURANT - 82 SHORE ROAD LLC – 82 Shore Road – Map 6 Block 67 – Limited Business District (LBD) – Design Review and Site Plan Review for change of use from Type 1 to Type 2 Restaurant for a pre 1930 structure. Application to replace existing deck and façade, and allow outside dining on deck.

Geoff Aleva from Civil Consultants addressed the Board as the Applicant's representative. Mr. Aleva noted the revised seating plan which includes 16 outdoor seats.

Mr. Wilkos asked if there was anyone else who wished to speak for, or against, this application. There being no one the Public Hearing was closed at 6:30 p.m.

REGULAR BUSINESS MEETING

A. ROLL CALL –

Members Present: Steve Wilkos (Chair)
Muriel Freedman (Vice Chair)
Jackie Bevins
Don Simpson
Rusty Hayes
Rick Dolliver (1st Alternate)

Members Excused: Brian Aromando (2nd Alternate)

Also Present: Scott Heyland, Code Enforcement Officer
Maryann Stacy, Recording Secretary

B. PLEDGE OF ALLEGIANCE -

C. MISSION STATEMENT – The Mission Statement was read by Mr. Simpson.

D. MINUTES - February 22, 2016 Workshops and Regular Business Meeting.

**Mr. Simpson Moved to Accept the Minutes of the February 22, 2016 Workshop.
SIMPSON/HAYES 5:0 UNANIMOUS**

Mr. Simpson Moved to Accept the Minutes of the February 22, 2016 Meeting as Amended.

SIMPSON/BEVINS 5:0 UNANIMOUS

E. PUBLIC INPUT – For any matter NOT already on this Agenda.

Mr. Wilkos asked if there was anyone who wished to be heard on any matter not on this agenda. There was no one.

F. UNFINISHED BUSINESS –

1. STEVEN GREENBERG – 96 Grasshopper Lane – Map 8 Block 32 – Residential (R) and Shoreland Limited Residential (SLR) Districts. Site Plan Review for a post 1930 Structure. Application to construct a 6' tall, 68' long, solid board fence in the Shoreland Limited Residential District.

Ms. Freedman recused herself and left the auditorium.

Mr. Wilkos moved 2nd Alternate Rick Dolliver up to full voting member status for the duration of this application.

Mr. Wilkos noted that the Board's action at this meeting would be to: discuss Public Hearing comments, approve, deny, or table the application. He noted that there were no public hearing comments from anyone other than the applicant's representatives.

Mr. Wilkos asked why this application is before the Board.

Mr. Heyland responded that the Applicant is proposing a six foot high fence which is not allowed in the Shoreland Zone except with Site Plan Review Approval from the Planning Board.

Mr. Simpson pointed out that no one has spoken out against this application. He asked if there were any letters from abutters.

Mr. Heyland responded there was a letter from the abutter who expressed no problem with the project.

Mr. Hayes asked how the trees were plotted on the plan, and if they can get a straight line on the fence without the removal of any additional trees.

Ms. Woodburn responded that the trees were surveyed; and no they can't get a straight line without removal of additional trees.

Mr. Hayes asked if they plan to put in an irrigation system, and if they don't believe that this would support new vegetation.

Ms. Woodburn responded that they are putting in an irrigation system however the trees suck up all the moisture and nutrients and have a very dense root system. She believes that the competitive nature of the maples will not allow for a good solid stand of vegetation sufficient to provide an effective privacy buffer.

Mr. Hayes asked if they intend to add soil to the area.

Ms. Woodburn responded that they will add some topsoil but not much.

Mr. Hayes informed Ms. Woodburn that he spoke with someone from the Boston Parks and Recreation Department who was the Director of Horticulture; and his opinion was that added soil and irrigation would be sufficient to support other plants.

Ms. Woodburn responded that with the intense shade and lack of nutrients the plants might live but they would not thrive enough to be a good buffer.

Mr. Hayes responded that he extensively questioned this individual who felt very sure there are alternatives.

Mr. Hayes asked about the other six foot fences in the neighborhood.

Mr. Heyland responded that those fences are existing; he (Mr. Heyland) has never issued a permit for a fence in that area that is over four feet.

Mr. Dolliver asked about a Site Visit, he also asked how long the property is.

Ms. Woodburn responded that it is over 200 feet. She indicated on the submitted plan the locations of the 6' solid fence and the open two rail fence.

Ms. Bevins suggested the 6' tall solid fence will look very out of place and the two rail fence should run the entire length.

Ms. Woodburn responded that the two rail fence would only define the property line; it would not provide any privacy.

Mr. Dolliver asked how high the removed invasive species were.

Ms. Woodburn responded that they were over six feet tall.

Mr. Dolliver expressed his concern that vegetation was removed which provided buffering and now the applicant wants to put up a fence to accomplish the same thing. However the abutter agrees to the fence, which holds weight with him. He also stated that the 6' fence will represent approximately 25% of the entire fence line.

Ms. Woodburn responded that the invasive species they removed invade the space and keep other things from growing; they are also not helpful to wildlife.

Mr. Wilkos reviewed Section 8.6.F.2 of the Zoning Ordinance. He asked if the street is a “public way” and if the fence would obstruct the view from the street.

Mr. Heyland responded that the street is a public way.

Ms. Woodburn indicated the photographs which show it will not block the view.

Mr. Dolliver asked where the other 6’ fence is located.

Ms. Woodburn responded that it is on the other side of the abutter’s property, and there are two more 6’ fences down the street.

Mr. Wilkos asked the Board members if they felt a Site Visit would benefit them.

The Board agreed that a Site Visit would help.

Mr. Heyland asked Ms. Woodburn to place a rope or flagging the entire length of the proposed fence line so the Board can see where both the 6’ and 4’ fence lines will be.

Mr. Wilkos agreed and the Site Visit was scheduled for March 28, 2016 at 4:00 p.m.

**Mr. Simpson Moved to Table the Application until after the March 28, 2016 Site Visit.
SIMPSON/DOLLIVER 5/0 UNANIMOUS**

Ms. Freedman rejoined the Board and Mr. Dolliver resumed 2nd Alternate status.

2. DAVID GIARUSSO – 661 Main Street – Map 13 Block 49 & 50 – General Business District 2 (GBD2). Site Plan Review for change of use from restaurant accessory parking area to paid parking lot.

Mr. Wilkos noted that the Board’s action at this meeting would be to: discuss Public Hearing comments, approve, deny, or table the application. He noted that there were no public hearing comments from anyone other than the applicant’s representative.

Geoff Aleva from Civil Consultants addressed the Board as the Applicant’s representative. Mr. Aleva noted that the parking plan is the same one that was approved in the fall; and that it meets all the regulations for the Town’s Ordinance regarding parking spaces/lots. The changes include notes to the plan which indicate hours of operation for daytime parking use. They have added another notation for a moveable parking kiosk for collecting money, which will be located away from the entrance. The “Special’s Sign” has been removed to provide a clear line of sight for vehicles entering and leaving the property.

Mr. Aleva introduced Randy Dutton from Gorrill Palmer who was the traffic engineer who prepared the traffic study.

Mr. Wilkos asked Mr. Dutton if he had reviewed the Ogunquit Traffic Ordinance and if his (Mr. Dutton’s) study complied with the Ordinance.

Mr. Dutton responded yes to both questions.

Ms. Bevins asked for the difference between a “Traffic Study” and a “Traffic Analysis”.

Mr. Dutton responded that a Traffic Study is for non-development projects. Traffic Impact Assessment / Study are usually development based with the intent of looking at the impact of the project on the adjacent roadway. There is no difference between assessment and study.

Ms. Bevins asked if Mr. Dutton considers this project to be a small project.

Mr. Dutton responded that he does, when comparing it to a 500,000 square foot retail development.

Mr. Dolliver noted that his business is directly across the street from the largest privately owned parking lot in Town, and there is a constant flow of traffic from 7:30 a.m. to 10:30 p.m. He doesn't think that Mr. Dutton's analysis passes the “straight face test”. He suggested that the Ocean Street intersection may be a “failed intersection”.

Mr. Dolliver stated that he has a hard time believing that 29 parking spaces with cars coming and going all day long won't generate any additional traffic compared to what is there now.

Mr. Dutton responded that there were businesses there that generated traffic coming in and out all day. Those business, which generated traffic, have been removed and replaced with parking. People go to the parking lot for uses outside the parking lot. It is his assertion that given the cost to park there (\$20 - \$25) they will not leave within a short period of time. This parking lot will generate parking for the day.

Mr. Dutton went on to say that the traffic generating businesses have been removed. Parking spaces do not generate traffic, thus a generator has been replaced by a non generator which means less traffic. Regarding the entering and exiting of the parking lot, due to the cost of the parking there will not be a high turnover.

Mr. Dolliver disagreed, he asserted that beach parking will cause traffic issues, and not all patrons for this parking lot will stay all day. People come and go from existing paid parking lots in town all day long.

Mr. Dutton responded that this parking lot is targeting beachgoers. He also noted that it will open at nine a.m. and everyone has to be out by 4:00 p.m. which is a short time period.

Ms. Bevins asked how the DOT determined eight accidents have occurred at that location.

Mr. Dutton responded that the Maine DOT identifies a high crash location as 8 or more crashes in a three year period with a critical rate factor of 1 or greater. The DOT anticipates a certain number of accidents at all locations where there are vehicles, and compares this location to other similar locations in the State for number of accidents.

Ms. Bevins stated that there have been 18 accidents at this location and asked why the DOT only reported 8.

Mr. Dutton responded that the other accidents may not have been reportable. Reportable accidents are those with damage of over \$1,000.

Ms. Bevins stated that a report, from the Sidewalk Committee, came before the Select Board listing the three most dangerous spots in Town and Ocean Street was one.

Mr. Hayes added that it was the Bicycle and Pedestrian Committee that suggested a Pedestrian Rapid Flash Beacon be placed on Route One. He noted that there are 30,000 daily visitors to Ogunquit in the summer, and he added that the DOT calculates \$1,100 per accident as reportable. Mr. Hayes went on to say that in the past five years there have been 40 crashes along Route One, with the three worst spots being: Ocean Street intersection, The Egg and I location, and the intersection of Agamenticus Road.

Mr. Hayes also noted that there are a lot of bicyclists that use Route One, and he suggested that any parking lot on Route One should have a traffic study, and that study should include any accident that is below \$1,000. It should include rear-end collisions, and bicyclists and pedestrians hit by cars. He would like to see a more in-depth study done.

Mr. Dutton asked what the objective would be, given his assertion that the parking lot will not generate traffic. He added that any time the police write an accident report it is included in the DOT database and thus in his report.

Mr. Hayes responded that the Board has been told that there are more crashes than have been reported.

Ms. Freedman pointed out that beachgoers parking at this parking lot will have to cross Route One to walk down Ocean Street to get to the Footbridge Beach. Her concern isn't the vehicles coming and going from the parking lot, her concern is with the increase in pedestrian traffic crossing Route One.

Mr. Wilkos asked if Mr. Dutton had a list of failed intersections on Route One.

Mr. Dutton responded that he did not, and he pointed out that the proposed parking lot decreases the traffic.

Mr. Heyland responded that the section of the Ordinance Mr. Dutton is referring to doesn't come into play until it has been determined that the project increases the traffic.

Mr. Simpson asked if the Ordinance specifies what type of traffic study needs to be done.

Mr. Heyland responded that the study would have to identify intersections within a mile of the project and determine whether they are failed or not. It would also have to determine if the project will reduce the traffic level. He noted that it is the Applicant's position that this project will not increase traffic.

Mr. Dutton added that the vehicles turning into the proposed parking lot will be vehicles already on the street; they are not people with this parking lot as their destination. These are people already on the street looking for parking.

Mr. Hayes expressed his concern with safety.

Mr. Dolliver stated that the project definitely increases the entering and exiting the parking lot. It definitely increases activity at the Ocean Street intersection. The question is whether it increases traffic. He agreed it may not increase traffic on Route One, however it definitely will add trips to this particular location.

Mr. Aleva pointed out that there is a cross walk across Route One at the Ocean Street intersection. Also, the improvements to Route One will have a center turning lane to create safer turning in and out of any business along Route One. He agreed with Mr. Dutton that this parking lot will not generate new traffic in Ogunquit. The patrons will already be here looking for a parking place so they can go to the beach. This parking lot will help get them off the street.

Ms. Bevins suggested the Board require a peer review study of the submitted traffic study.

Mr. Wilkos reviewed Mr. Heyland's January 27, 2016 memo wherein he reminded the Board that they can require such a peer review.

Mr. Simpson referred to Section 8.13 of the Zoning Ordinance. He does not think that this project will increase traffic, however he does have concerns regarding pedestrian safety and crashes. He wasn't sure a peer review would provide any new information.

Ms. Freedman agreed with Mr. Simpson.

Mr. Hayes reiterated his concern for pedestrian safety; and his belief that the Board needs a new traffic study that includes more information than the DOT has provided. He also wants to know if the Ocean Street intersection is a failed intersection.

Mr. Wilkos reminded everyone that the failed intersection section of the Ordinance doesn't come into play until it is determined that the project will increase traffic.

Ms. Bevins agreed with Mr. Hayes.

Mr. Dolliver wanted a peer review of the Applicant's assertion that the project won't add traffic to Route One. He also wants confirmation that the project won't add more activity to this intersection, or pose an increase in danger.

Mr. Heyland suggested that a peer review might accomplish the same thing as a new study.

Mr. Dolliver asserted that the project may not increase traffic going north and south, but it will increase the east – west traffic coming off of and entering Ocean Avenue.

Mr. Dutton responded that the applicant would welcome a peer review if the Board would like one.

Mr. Simpson asked about the payment for the parking.

Mr. Aleva responded it will be one fee for the entire day, regardless of how long the person stays.

Mr. Dolliver pointed out that all the existing lots are flat rate fee for the day. He noted that when the Main Beach lot fills up there is a line of cars stacked up and waiting for a space to open up.

Mr. Aleva added that when this lot is full there will be a "lot full" sign that can be seen from Route One.

The Board members agreed that their concerns are with: the cars turning into and coming out of the parking lot, as well as vehicles lining up on Route One to enter the lot, they are also concerned with the safety of pedestrians crossing Route One to get to the beach via Ocean Avenue.

Ms. Bevins expressed that the residents are very concerned with parking.

Ms. Freedman suggested that people seeing the Footbridge Beach Lot is full they will leave their passengers off, drive up and park at the Applicant's lot, and one person will be walking down Ocean Avenue.

Mr. Heyland referred to the beginning of Section 8.13.A, which addresses pedestrians and level of service. He asked Mr. Dutton if traffic studies generally look at pedestrians or only vehicles.

Mr. Dutton responded that they look at pedestrian and bicycles, the trolley stops, crosswalk locations etc.

Mr. Wilkos asked Mr. Dutton if he addressed 8.13.A in his study.

Mr. Dutton responded that it is his assertion that they are not increasing traffic, so no.

Mr. Aleva pointed out that the DOT has rebuilt the sidewalks on Angelina's side of Route One including granite curbing and raised sidewalks that are not part of the road shoulder, there is also a painted cross walk adjacent to the property. As part of their project the DOT must have looked at pedestrian safety along Route One due to the trolley stop location.

Mr. Aleva welcomed a peer review and the opportunity to address any comments made in that review.

Mr. Wilkos pointed out that the Applicant's representatives have agreed to a peer review. He also noted that the peer review would be paid for by the Applicant.

Ms. Freedman Moved to require a peer review of the Traffic Assessment.

FREEDMAN/BEVINS 4:1 (Mr. Hayes Dissenting)

Mr. Heyland informed the Board that he will submit the study to a traffic engineer. He asked if there was anything else the Board wants from the Applicant.

Mr. Dolliver stated that the peer review needs to include a review of 8.13 and a determination of whether this application meets all required standards.

Mr. Heyland agreed.

Mr. Wilkos asked about the issue of buffering.

The Board agreed that this issue has already been satisfied.

Ms. Freedman asked about the State Driveway Permit.

Mr. Aleva responded that he submitted an application to them and was informed by telephone that this project does not require a DOT Driveway Permit. Mr. Aleva stated that he has not received written confirmation however he anticipates it will arrive soon, and he will submit it to the Board for the next meeting.

Ms. Freedman asked about the north entrance which also appears to be an exit.

Mr. Aleva responded that this driveway is two-way traffic. He also agreed to revise the site plan to more clearly indicate traffic flow.

Mr. Hayes asked when the parking lot will be hot-topped and the parking spaces numbered.

Mr. Aleva responded, as soon as possible.

Mr. Heyland asked if the Board is requiring the Applicant to number the spaces on the site.

It was determined that the spaces would only be numbered on the site plan, not on the actual parking spaces on the ground.

Mr. Wilkos asked about General Project Note #6 on the plan.

Mr. Aleva responded that the Applicant wants to be able to operate the parking lot on the weekends in the off-season. He agreed to remove the word "June".

Mr. Simpson Moved to Table the Application for DAVID GIARUSSO – 661 Main Street – Map 13 Block 49 & 50 pending the completion and submission of the Traffic Assessment Study Peer Review, and the submittal of the letter from the State indicating no Driveway Cut Permit is required.

SIMPSON/FREEDMAN 5:0 UNANIMOUS

3. OGUNQUIT WATERFRONT ASSOC. /PHILIP CAVARETTA –107 Perkins Cove Road - Map 3 Block 71-72-73 – Shoreland General Development 2 (SGD2). Site Plan Review for change of use from Type 1 to Type 2 Restaurant and construction of a 22’x16’ deck and egress on a post 1931 structure.

Mr. Wilkos noted that during the Public Hearing the abutter’s attorney raised three points: First was the failure to correctly locate the setback from the normal high water line.

Mr. Cavaretta informed the Board that he had a survey done that morning to correctly identify that line using the USGS Datum. The new survey indicates that no part of the building falls within the fifty foot setback.

Ms. Freedman reminded the Board that the Board’s By-Laws clearly state that late submittals are not suppose to be distributed at a meeting. She is uncomfortable proceeding without proper time to review the newly submitted material.

Mr. Dolliver responded that the paperwork they have been handed is: a summary of what the attorney has already stated, and a survey submitted in response to the abutter’s concern. He also noted that the engineer is here to answer questions.

A majority of the Board agreed to review the new survey, and Mr. Cavaretta distributed it.

Dana Libby from Cornerpost Land Surveying addressed the Board. Mr. Libby stated that he went to the site this morning and, using the USGS Datum he determined that the 6.2 line is actually closer to the ocean than was previously thought.

Mr. Heyland asked if the Applicant is revising the application, or if he intends to maintain the two foot setback on the upper part of the structure.

Mr. Cavaretta responded that it will be more attractive if the railing runs along the perimeter of the building, however they do not intend to change the seating plan.

Adam Schoenhardt, Architect responded that the plan has always been to run the railing along the perimeter of the building, however the original plan included a two foot planter to occupy the setback space. The only change may be to remove the planter.

Mr. Heyland responded that they are all set with regard to the setback.

Regarding the Resource Protection Zone, Mr. Cavaretta stated that they are not changing the building in any way that will impact the RPD.

Mr. Wilkos asked if the new deck will be in the RPD.

Mr. Heyland responded that this structure is within the General Development 2 District (GD2) and is removed from any Resource Protection. He (Mr. Heyland) has made the determination that the existing, developed, building footprint, which meets the criteria for General Development 2, would be withdrawn from the Resource Protection. The Ordinance states that

the Code Enforcement Officer has the authority to ultimately determine where the line is. He is satisfied.

Regarding the buffering, Mr. Cavaretta expressed his belief that nothing can improve on the existing bamboo and 8' tall fence. Regarding noise, he does not intend to utilize the deck after 9:00 p.m. and with the prevailing winds carrying sound out to sea he doesn't think noise will be a problem.

Mr. Dolliver asked who maintains the fence and bamboo. He pointed out that bamboo grows fast and tall during the spring and summer.

Mr. Cavaretta responded that the bamboo just grows, and the fence is jointly maintained.

Mr. Dolliver stated that the applicant has expressed his willingness to do whatever he can to buffer the area.

Mr. Wilkos asked about lighting.

Mr. Schoenhardt responded that they want low lighting, lanterns, candlelight, and indirect lighting from planters.

Mr. Heyland asked for confirmation that there would be no high lighting.

Mr. Schoenhardt responded that there would not be any high lighting.

Mr. Wilkos asked about the hours of operation, and if they are labeled on the site plan.

Mr. Cavaretta responded that the deck hours will be from 11:00 a.m. to 9:00 p.m.

Ms. Bevins asked about outdoor music.

Mr. Heyland acknowledged that outdoor speakers are allowed.

The Applicant stated that the music would be at a very low level

Mr. Simpson stated that the issue of the survey has been resolved however he asked if the newly presented documents need to be made available to the public in the Land Use Office prior to the Board making a determination, and now there is the issue of the music.

Mr. Cavaretta responded that they will not have any outdoor music.

Mr. Dolliver suggested that the newly submitted survey only confirms what the applicant has asserted all along that the proposed deck does not violate the setbacks.

Mr. Hayes stated that the other abutters should be given the opportunity to review the newly submitted information prior to the Board making a decision

Mr. Dolliver responded that the new survey answers the abutter's question and does so in the Applicant's favor. Also, he doesn't think the process should be dragged out because an abutter doesn't, or can't, attend the Public Hearing.

Mr. Wilkos noted that the newly submitted survey clearly shows that the deck is outside the fifty foot setback, and it doesn't change the deck design.

Mr. Hayes asked how the survey was done.

Mr. Libby responded that he used RTK GPS to establish the 1988 datum. That GPS is accurate to within 6/100.

Mr. Wilkos asked if Mr. Heyland was comfortable with the survey piece.

Mr. Heyland responded that he is.

Mr. Dolliver noted correspondence from the abutters to the south of the proposed project. Wherein they expressed concern regarding the accuracy of the high water mark, which the Board has satisfied. The abutters also expressed concern about buffering. Mr. Dolliver stated that it is impossible to buffer a 2nd floor deck from a 3rd floor deck/window.

Mr. Cavaretta responded that the only buffering he can see is if he were to provide a lattice or wall for the abutter to use on their own deck. He also stated that the ordinance doesn't allow for air rights, and the letter the Board is referring to is not from a direct abutter.

Mr. Heyland agreed that "abutter" constitutes the directly adjacent properties.

Mr. Cavaretta added that this is a fine dining restaurant, there will be no loud outside noise or bright lights to disturb the neighbors.

Mr. Wilkos asked if the abutter's attorney had any suggestions for buffering.

Attorney Matthew Williams responded that Mr. Laurent's objections includes not just when he is sitting on his deck but when he walks down his property to the water. He also objects on the grounds of noise; of having a residential property next to outside dining. Mr. Williams argued that it cannot be buffered properly which is why he is asking the Board to deny the application.

Mr. Cavaretta reiterated that he would do more if he could but he can't think of anything that would be better than the fence and bamboo. He also pointed out the congested nature of Perkins Cove.

Mr. Wilkos asked how many seats will be on the deck.

Mr. Cavaretta responded that there will 18 seats, they will stop serving at 9:00, and there will be no outside music.

The Board agreed that the Applicant had satisfied buffering requirements for the direct abutters.

Mr. Hayes asked if there was any ordinance which says people can be on that rock beach after 9:00 p.m.

Mr. Cavaretta responded that it is a public beach and people walk on it all the time.

The Board reviewed the Ordinance Site Plan approval standards as outlined in Section 6.7 of the Ogunquit Zoning Ordinance and found all standards satisfied.

Ms. Freedman Moved to Approve the Application for OGUNQUIT WATERFRONT ASSOC. /PHILIP CAVARETTA –107 Perkins Cove Road - Map 3 Block 71-72-73 – Shoreland General Development 2 (SGD2). Site Plan Review for change of use from Type 1 to Type 2 Restaurant and construction of a 22’x16’ deck and egress on a post 1931 structure. With the conditions that: there be no outside music, and service on the deck stop at 9:00 p.m.

FREEDMAN/HAYES 4:1 (Mr. Simpson Abstained)

4. WILD BLUEBERRIES RESTAURANT - 82 SHORE ROAD LLC – 82 Shore Road – Map 6 Block 67 – Limited Business District (LBD) – Design Review and Site Plan Review for change of use from Type 1 to Type 2 Restaurant for a pre 1930 structure. Application to replace existing deck and façade, and allow outside dining on deck.

Mr. Wilkos noted that there were no comments at the Public Hearing.

Geoff Aleva addressed the Board as the Applicant’s representative. Mr. Aleva summarized that they are seeking to: convert to a Type 2 Restaurant to allow the continued use of the non-conforming use of the outside seating and for design changes to the front of the structure with changes to the doors and the front deck. Mr. Aleva noted that the Applicant had been asked to provide a seating plan. He noted the submitted proposed seating plan. He confirmed there were originally 24 outside seats the proposed plan has only 16 outside seats. The inside seating will remain unchanged.

Mr. Aleva noted that the plans were reviewed and approved by the Ogunquit Historic Preservation Commission.

Mr. Hayes asked if the deck seating had been reviewed by the Fire Chief.

Mr. Aleva responded that is has. There was an issue with a door that needed to swing outward and that has been corrected. The Fire Chief did a walkthrough and is now satisfied.

Mr. Hayes asked for a letter from the Fire Chief indicating that he approved the seating. He noted that the ordinance calls for 15 square feet per seat and he asked if the new plan meets that.

Mr. Aleva responded that it does. The deck is 274 square feet, divided by 15 gives them a little over 18 seats. They are proposing 16 seats.

Mr. Heyland confirmed this.

Ms. Freedman noted that the deck was originally used for people waiting to be seated. She asked where those people will wait now.

Jason Moody, from Moody and Sons responded that there is an indoor waiting area near the hostess station.

Mr. Wilkos noted a Memo from the Ogunquit Historic Preservation Commission, which approved the proposed changes.

The Board reviewed the Design Review Standards and found them satisfied with regard to Article 11.7.C of the Ogunquit Zoning Ordinance.

Mr. Simpson Moved to Approve the Design Review for WILD BLUEBERRIES RESTAURANT - 82 SHORE ROAD LLC – 82 Shore Road – Map 6 Block 67. SIMPSON/BEVINS 5:0 UNANIMOUS

Mr. Wilkos noted a memo to the Board from the Code Enforcement Officer dated February 16, 2016 and determined that all concerns have been satisfied by the Applicant.

The Board reviewed the Ordinance Site Plan approval standards as outlined in Section 6.7 of the Ogunquit Zoning Ordinance and found all standards satisfied.

Mr. Simpson Moved to Approve the Site Plan Review for WILD BLUEBERRIES RESTAURANT - 82 SHORE ROAD LLC – 82 Shore Road – Map 6 Block 67. SIMPSON/HAYES 5/0 UNANIMOUS

G. NEW BUSINESS –

- 1. LA ORILLA – ALEXANDRA HAIGHT – 53 SHORE ROAD – Map 7 Block 114 – General Business District 1 / Shoreland Limited Commercial. Design Review for a pre-1931 structure. Application to add a 13’x25’ retractable awning over back patio, remove two 2-seat tables and replace them with a 4-seat moveable bar, relocate host stand, and replace opening with same material fence.**

Alexandra Haight addressed the Board. She noted a slight change to the application. She no longer will be relocating the host stand and there will be no change to the existing fence.

At this time the Board review the Applicant’s waiver requests with the following results:

Mr. Simpson Moved to Grant a Waiver Request for Item 11.6.A.2 - Elevations of each side of the proposed building or structure to be constructed or altered, at a scale of at least 1/4" = one foot, and in the case of alterations, showing conditions before and after the proposed work.

APPLICANT’S REASON: “I have drawn a picture based on the measurements of the building. I have provided pictures of what the awning would look like, the color agreed

upon by the historical society and me, and the measurements of the retractable awning and what the building looks like now and then what I think it will look like. I did not think it was reasonable to hire someone to make these drawings because I felt my drawings were a very reasonable substitute.”

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/BEVINS 4:0 (Mr. Hayes was out of the room).

Mr. Simpson Moved to Grant a Waiver Request for Item 11.6.A.5 a&b - Visual impact assessment.

APPLICANT’S REASON: “The proposed project is only about \$7,000 and I have included a picture in this packet to show the only place that the awning could be seen from Shore Rd. The strict compliance with the required application submission would be excessive in light of the nature of the proposed structure, provided that such a waiver will not effect or nullify the intent and purpose of the Zoning Ordinance.”

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/BEVINS 5:0 UNANIMOUS

Mr. Simpson Moved to find the Design Review Application complete and approve the application for LA ORILLA – ALEXANDRA HAIGHT – 53 SHORE ROAD – Map 7 Block 114 –General Business District 1 / Shoreland Limited Commercial. Design Review for a pre-1931 structure. Application to add a 13’x25’ retractable awning over back patio, and remove two 2-seat tables and replace them with a 4-seat moveable bar.

- 2. THE WINE CELLAR – ALEXANDRA HAIGHT – 59 SHORE ROAD – Map 7 Block 115 – Limited Business District. Design Review and Site Plan Review for a pre 1931 structure. Application for change of use from therapeutic massage business to retail beer and wine store. Exterior addition of grape vine trellis over doorway and brick path to entrance.**

At this time the Board reviewed the Applicant’s waiver requests with the following results:

Mr. Simpson Moved to Grant a Waiver Request for Item 11.6.A.2 - Elevations of each side of the proposed building or structure to be constructed or altered, at a scaled of at least 1/4" = one foot, and in the case of alterations, showing conditions before and after the proposed work.

APPLICANT’S REASON: “I did not think it was reasonable to hire someone to make these drawings because I felt my drawings were a very reasonable substitute.”

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/BEVINS 5:0 UNANIMOUS

Mr. Simpson Moved to Grant a Waiver Request for Item 11.6.A.4 - Estimation of construction cost for new building

APPLICANT'S REASON: "There will be no new buildings, this is a pergola that will be free standing, thus the strict compliance with the required application submission would be excessive in light of the nature of the proposed structure, provided that such a waiver will not effect or nullify the intent and purpose of the Zoning Ordinance."

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/BEVINS 5:0 UNANIMOUS

Mr. Simpson Moved to Grant a Waiver Request for Item 11.6.A.5 a&b - Visual impact assessment.

APPLICANT'S REASON: "The proposed project is only about \$1500 and the strict compliance with the required application submission would be excessive in light of the nature of the proposed structure, provided that such a waiver will not effect or nullify the intent and purpose of the Zoning Ordinance."

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/BEVINS 5:0 UNANIMOUS

Mr. Simpson Moved to Grant a Waiver Request for Item 6.6.C.3.G - Existing and Proposed: Utilities, Sewers, Water Mains, Coverts, Storm water Mgmt, On-site or Adjacent.

APPLICANT'S REASON: "This site uses town water and sewage and is already developed. There will be no changes to any of the above items."

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/BEVINS 5:0 UNANIMOUS

Mr. Simpson Moved to Grant a Waiver Request for Item 6.6.C.3.H - Existing and Proposed: Two foot Contours.

APPLICANT'S REASON: "The site is currently developed."

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/BEVINS 5:0 UNANIMOUS

Mr. Simpson Moved to Grant a Waiver Request for Item 6.6.C.3.I - Location of all wetlands, rivers, streams, brooks and other bodies, natural features, on-site or adjacent

APPLICANT'S REASON: "There are no known or documented wetlands, rivers, streams, brooks or other water bodies, natural features on-site or adjacent. The closest river is the Ogunquit River which is one parcel away."

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/HAYES 5:0 UNANIMOUS

Mr. Simpson to Grant a Waiver Request for Item 6.6.C.3.J - High intensity soil survey (for undeveloped, vacant sites w/o water & sewer).

APPLICANT'S REASON: "The site is currently developed."

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/HAYES 5:0 UNANIMOUS

Mr. Simpson Moved to Grant a Waiver Request for Item 6.6.C.3.L - The boundaries of any flood hazard areas and the 100 year flood elevation.

APPLICANT'S REASON: "There are no known flood hazard areas as per the survey of this property."

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/HAYES 5:0 UNANIMOUS

Mr. Simpson Moved to Grant a Waiver Request for Item 6.6.C.3.M - A copy of any proposed deed restrictions intended to cover all or part of subject property

APPLICANT'S REASON: "There are no known deed restrictions as per deed."

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/HAYES 5:0 UNANIMOUS

Mr. Simpson Moved to Grant a Waiver Request for Item 6.6.C.3.N.i - Sewer service area- a letter from the sewer district stating the district has the capacity to collect and treat the waste water, review and approval of sewerage system design

APPLICANT'S REASON: "The property's future use will be a retail store and storage area, we are not required by law to provide public restrooms to our patrons. We do use town sewage, but we will not be allowing our customers to use the restroom for employees."

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/HAYES 5:0 UNANIMOUS

Mr. Simpson Moved to Grant a Waiver Request for Item 6.6.C.3.N.ii - Outside Sewer Area- Septic System Design by LSE or PE

APPLICANT'S REASON: "The property is not outside the Sewer Area."

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/HAYES 5:0 UNANIMOUS

Mr. Simpson Moved to Grant a Waiver Request for Item 6.6.C.3.O.i - Water Service Area- A written statement from the servicing water district indicating review and approval of water system design.

APPLICANT'S REASON: "This change of use to a retail store does not require the store owner by law to have running water to be consumed. There will not be a public restroom, but the building does use town water and sewer."

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/HAYES 5:0 UNANIMOUS

Mr. Simpson Moved to Grant a Waiver Request for Item 6.6.C.3.O.iii - Outside Water Service Area- Evidence of adequate supply from well driller or hydrogeologist.

APPLICANT'S REASON: "The property is not outside the water service area."

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/HAYES 5:0 UNANIMOUS

Mr. Simpson Moved to Grant a Waiver Request for Item: 6.6.C.3.P- Location, names, and present widths of existing streets, highways, easements, building lines, parks, and other open spaces on or adjacent.

APPLICANT'S REASON: "There are no highways, parks, easements or other open spaces on or adjacent to the property. I have submitted the widths of our driveway that is adjacent to our property and measurements of the building lines can be located on the submitted survey of our property. This site is developed and we do not plan to change any widths or building lines on this property."

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/HAYES 5:0 UNANIMOUS

Mr. Simpson Moved to Grant a Waiver Request for Item 6.6.C.3.Q - Width and location of any streets, public improvements or open space shown upon the official map and in the comprehensive plan, if any, with the site.

APPLICANT'S REASON: "The property is currently developed. There are no public improvements or open spaces that exist on this property."

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/HAYES 5:0 UNANIMOUS

Mr. Simpson Moved to Grant a Waiver Request for Item 6.6.C.3.R - Location for any open space to be preserved and a description of proposed ownership, improvement and management.

APPLICANT'S REASON: "The property is currently developed. There are no open spaces that exist and will be preserved improved or managed."

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/HAYES 5:0 UNANIMOUS

Mr. Simpson Moved to Grant a Waiver Request for Item 6.6.C.3.S - Hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer- Outside of public water and sewer areas.

APPLICANT'S REASON: "The property is not outside of public water and sewer areas. This location is served by public water and sewage."

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/HAYES 5:0 UNANIMOUS

Mr. Simpson Moved to Grant a Waiver Request for Item 6.6.C.3.T - An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours.

APPLICANT'S REASON: "The property's future function is a retail store. There are no public parking spaces. All of our customers will be driven by foot traffic from the nearby hotels in Ogunquit. We do not predict that we in any way will increase the normal flow of vehicular traffic in this area."

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/HAYES 5:0 UNANIMOUS

Mr. Simpson Moved to Grant a Waiver Request for Item 6.6.C.3.U - A Traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering (for projects requiring 10 or more parking spaces, or 50+ trips per day).

APPLICANT'S REASON: "All of our customers are driven by foot traffic from the nearby motels given that we are one block from the downtown area."

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/HAYES 5:0 UNANIMOUS

Mr. Simpson Moved to Grant a Waiver Request for Item 6.6.C.3.V- Areas within or adjacent to the proposed site which have been identified as high or moderated value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the comprehensive plan.

APPLICANT'S REASON: "The property is already developed, so there are no valuable wildlife habitats."

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/HAYES 5:0 UNANIMOUS

Mr. Simpson Moved to Grant a Waiver Request for Item 6.6.C.3.X - Parking, Driveway, and Street Plans.

APPLICANT'S REASON: "This property does not have any public parking spaces. We are a block from the downtown area and all of our patrons will be from the nearby motels on shore road that are walking by."

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/HAYES 5:0 UNANIMOUS

Mr. Simpson Moved to Grant a Waiver Request for Item 6.6.C.3.Y - Stormwater Management Plan

APPLICANT'S REASON: "This site is already developed and does not require a storm water management plan in order to maintain a safe and healthy environment."

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/HAYES 5:0 UNANIMOUS

Mr. Simpson Moved to Grant a Waiver Request for Item 6.6.C.3.Z - Erosion & Sedimentation Control Plan.

APPLICANT'S REASON: "This site is currently developed and there are no known rivers, wetlands, streams, brooks and other water bodies, natural features in-site or adjacent that could potentially be impacted. The closest body of water is the Ogunquit River, but this is not adjacent to the property."

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/HAYES 5:0 UNANIMOUS

Mr. Simpson Moved to Grant a Waiver Request for Item 6.6.C.3.AA - Location of any streets, public improvements or open space shown in the comprehensive plan or capital improvements plan, within the site.

APPLICANT'S REASON: "There are no streets, public improvements or open space within the site."

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/HAYES 5:0 UNANIMOUS

Mr. Simpson Moved to Grant a Waiver Request for Item 6.6.C.3.BB - Parcel of land proposed to be dedicated to public use and the conditions of such dedication.

APPLICANT'S REASON: "There are no dedicated spaces for public use."

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/HAYES 5:0 UNANIMOUS

Mr. Simpson Moved to Grant a Waiver Request for Item 6.6.C.3.CC - Location /Method of Land Clearing & Construction Debris disposal.

APPLICANT'S REASON: "This property is already developed."

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/HAYES 5:0 UNANIMOUS

Mr. Simpson Moved to Grant a Waiver Request for Item 6.6.C.3.DD - Cost Estimates for Setting Performance Guarantees, pursuant to sec 4.8

APPLICANT'S REASON: "The scope of site and building improvements do not require performance guarantees."

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/HAYES 5:0 UNANIMOUS

Mr. Simpson Moved to Grant a Waiver Request for Item 6.6.C.3.EE -State or Federal Permits: DEP site law, DEP NRPA, DHHS, Army Corps, DOT.

APPLICANT'S REASON: "As a retail store, we are not required these state or federal permits."

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not affect or nullify the intent and purpose of the Zoning Ordinance.

SIMPSON/HAYES 5:0 UNANIMOUS

Mr. Simpson Moved to find the Design Review and Site Plan Applications complete for THE WINE CELLAR – ALEXANDRA HAIGHT – 59 SHORE ROAD – Map 7Block 115 and to schedule a Site Plan Public Hearing.

SIMPSON/BEVINS 5:0 UNANIMOUS

Mr. Hayes Moved to Approve the Design Review for THE WINE CELLAR – ALEXANDRA HAIGHT – 59 SHORE ROAD – Map 7 Block 115.

HAYES/BEVINS 5:0 UNANIMOUS

Mr. Wilkos informed the Applicant that the Public Hearing would take place on March 28, 2016 at 6:00 p.m.

H. CODE ENFORCEMENT OFFICER BUSINESS –

I. OTHER BUSINESS – None

J. ADJOURNMENT -

**Mr. Simpson Moved to Adjourn at 9:45 p.m.
SIMPSON/HAYES 5:0 UNANIMOUS**

Respectfully Submitted

Maryann Stacy

Maryann Stacy

Recording Secretary

Approved on March 28, 2016