

**OGUNQUIT PLANNING BOARD MINUTES  
REGULAR BUSINESS MEETING  
MAY 24, 2010**

**PUBLIC HEARING – 6:00 P.M.**

**POST ROAD TAVERN - 705 Main Street (Map12 Lot 13) – Site Plan Review for Change of Use of post 1930 structure. Application to change from Type 1 to Type 2 Restaurant and placement of four (4) outdoor tables and chairs.**

Elaine Orser (Applicant) addressed the Board. Ms. Orser confirmed that it is her intention to place four (4) tables and sixteen (16) chairs in the area adjacent to the front door of the restaurant. They intend to serve dinner from 2:00 p.m. to 9:00 p.m. She also confirmed that they have agreed to abide by the Fire Chief's recommendations to use 6 inch x 6 inch pressure treated beams sunk at least 4 feet into the ground and extending at least 4 feet above the surface of the ground.

Robert Martellucci (714 Main Street Unit H1) addressed the Board. Mr. Martellucci is an owner of a unit at Sunrise Terrace Condominiums which is directly across Route One from the Post Road Tavern. Mr. Martellucci informed the Board that residents at Sunrise Terrace are concerned about the noise which will come from outdoor dining at this restaurant. They have had problems in the past and have called the police when noise levels were too high because doors were left open, and this was without outdoor dining. He asked if the Orsers intend to pipe music to the outside table area.

Ms. Orser responded that they do not.

Mr. Martellucci asked for confirmation that the outdoor seating would only be used for dinner between 2:00 p.m. and 9:00 p.m.

Ms. Orser confirmed this.

Mr. Martellucci asked how the Orsers will monitor activity at the outdoor tables after 9:00 p.m. He suggested that on nice nights people will want to sit and drink out there. He asked if they will ever use these tables for just drinking.

Ms. Orser responded that they will have a staff person outside at all times. She added that they will only use the outdoor tables for food service, not for drinks only.

Mr. Martellucci asked if they would consider putting up a noise barrier. He noted that it gets loud when people are standing around outside.

Mr. Lempicki asked if Mr. Martellucci had called the police in the past because of noise problems. He asked if residents at Sunrise Terrace had only telephoned or if they followed up in writing.

Mr. Martellucci responded that they have called the police but he was unaware of any letters being sent.

Mr. Lempicki informed Mr. Martellucci that if there are problems in the future, and residents of Sunrise Terrace have the need to call the police, they should follow up with a letter to the police. This will ensure that their complaint is logged and a record is kept.

Ms. Orser responded that she was unaware of any calls to the police. In addition, when they have live entertainment they have someone at the door who is responsible for maintaining order and ensuring that everyone follows the rules.

Mr. Yurko asked Ms. Orser to confirm that it is her intention to only have outdoor seating between 2:00 and 9:00 p.m. and he asked if she was agreeable to the Board making this a condition of approval.

Ms. Orser responded that they serve dinner until 9:30 p.m. they then have late night dinner which is served until 12:30 and they would like to use the outdoor tables for the late night dining as well.

Mr. Yurko stated that in the past the Board has placed conditions on the hours, and he asked her if she wanted to continue should the Board decide to do so in this case.

Ms. Orser responded that she would prefer not to have any conditions, however should the Board determine that she can only use the outdoor tables until 9:30 she will abide by that.

Mr. Sowa noted that Ms. Orser has changed her closing time several times. At first she said they will use the outside seating until 9:00 p.m. then she changed this to 9:30 p.m. and now she is saying 12:30. He pointed out that the condition of timing was always intended to be "last seating". Not what time the customer would leave. This would mean that Ms. Orser might seat the last patron at 9:30 and that these customers may complete their meal and that there is a chance they won't leave their table until 10:30 or 11:00 p.m.

Ms. Orser responded that they usually serve dinner until 9:30 p.m., after that they offer a late night menu and she would like to be able to seat these late night customers outside until 12:30.

Mr. Martellucci responded that he is still concerned and again suggested the use of a sound barrier. He is concerned about people sitting outside until 12:30 drinking and making noise.

Ms. Orser responded that she would not want to use a barrier. This would take away from the appearance of the business. She reiterated that they will have an attendant outside at all times.

Adele Gray (714 Main Street Unit F1) addressed the Board. Ms. Gray also owns a unit at Sunrise Terrace and she asked if the outside tables would be used only for food service or would customers be allowed to sit outside and only order drinks.

Ms. Orser responded that customers at the outside tables will not be allowed to only order drinks. These tables will be for food service only, however they will also serve drinks to those customers who are eating, The tables won't be for drink service only.

The Public Hearing was closed at 6:15 p.m.

### **REGULAR BUSINESS MEETING**

#### **A. ROLL CALL –**

The roll was called with the following results:

Members Present: Richard Yurko, Vice Chairperson  
William Sowa  
Greg Titman  
Hank Hokans

Members Excused: Tim Pinkham, Chairperson

Also present: Paul Lempicki, Code Enforcement Officer

Mr. Yurko noted that Mr. Pinkham was unavailable due to health reasons and would be excused, and that he (Mr. Yurko) would act as Chair in Mr. Pinkham's absence.

**B. MISSION STATEMENT** - The Mission Statement was read by Mr. Titman.

**C. MINUTES – May 10, 2010 Regular Business Meeting.**

The Minutes of the May 10, 2010 Meeting were Accepted as Amended.

**D. PUBLIC INPUT –**

Michael Gaudette addressed the Board. Mr. Gaudette is working on a project at 297 Main Street (Map 7 Lot 17). On May 18, 2010 the Code Enforcement Officer issued a Stop Work Order for this project. Mr. Gaudette submitted a packet of information regarding his background and work experience as well as the specifics of this project (*copies of which will be maintained in the Code Enforcement File for this property*).

Mr. Yurko referred to Article 5.2.A of the Ogunquit Zoning Ordinance and informed Mr. Gaudette that if he disagrees with the Code Enforcement Officer's decision he (Mr. Gaudette) needs to make his appeal to the Zoning Board of Appeals. The Planning Board has no jurisdiction to overturn the Code Enforcement Officer's decision. Mr. Yurko went on to say that the Planning Board is not in a position to act on a Site Plan Review which has not yet been submitted.

The Board members agreed with Mr. Yurko.

Jerry DeHart, Chairman of the Ogunquit Historic Preservation Commission asked Mr. Gaudette to submit his plans to the Commission for review prior to the going to the Planning Board. He noted that the Commission can help the applicant and make suggestions which will help streamline the Site Plan Review process.

Mr. Yurko asked if this structure is a pre-1930 building.

Mr. DeHart confirmed that it is and added that it is on the National Register of Historic Buildings.

Mr. Gaudette agreed to contact the Commission. He added that his purpose is to get his workers back to work.

**E. UNFINISHED BUSINESS –**

**1. POST ROAD TAVERN - 705 Main Street (Map12 Lot 13) – Site Plan Review for Change of Use of post 1930 structure. Application to change from Type 1 to Type 2 Restaurant and placement of four (4) outdoor tables and chairs.**

Mr. Yurko informed the audience that a Type 1 Restaurant is only allowed to have indoor dining, and that a Type 2 Restaurant is allowed to have outside dining. Type 2 Restaurants are permitted only in certain districts and the Post Road Tavern is located in one of those districts.

Mr. Hokans noted that the applicant has acquiesced to the Fire Chief's recommendation regarding the use of sunken pressure treated posts instead of cement barriers.

Mr. Titman recommended the Board treat this application in the same manner as past outdoor dining applications.

Mr. Yurko noted that the Ordinance states that outdoor dining in these permitted areas is subject to Site Plan Review. However, examination of the Site Plan Review process shows that there is very little which pertains to outdoor dining, particularly with regard to noise. He suggested that this might be a worthwhile topic of discussion for a future workshop.

Mr. Hokans pointed out that Ogunquit does have a noise ordinance. He also pointed out that while there are sleeping units in the abutting hotel the residences at Sunrise Terrace are some distance across Route One. Mr. Hokans acknowledged that restaurants are allowed to stay open until 1:00 a.m. however the Board has the authority to restrict the times when they can serve outdoors.

Ms. Orser reiterated that it is their intent to serve a full menu until 9:30 p.m. then switch to the late night menu which will be served until 12:30. They would like to use the outdoor tables until 12:30. She also stressed that there will be an attendant outside at all times.

Tom Orser addressed the Board. Mr. Orser asked the Board to allow them to use the outdoor seating from the time they open at 2:00 p.m. until they close. He stressed that they do not intend to have any music outside. These tables will only be used for dining. Mr. Orser noted that this seating area is in a depressed area which provides a natural sound containment.

Mr. Yurko responded that the Board is concerned about this noise issue. He wondered if the Board might place a condition that the applicant closes the outside dining at 10:00 p.m. and allow the Applicant to come back before the Board after a period of time to request an expansion of the closing time.

Mr. Orser asked if there are similar restrictions on other restaurants with outdoor seating.

Mr. Yurko responded that there are.

Mr. Orser responded that there are no residential areas adjacent to the restaurant. He corrected himself to note that there is a residential area behind the building.

Ms. Orser noted that there is hotel next door.

Mr. Yurko agreed and added that the guests at the hotel may be disturbed by noise.

Mr. Orser stated that he doesn't know of any complaints.

Mr. Lempicki informed the Board that restrictions have been placed upon restaurants which abut residential areas. He also noted that his office conducts liquor inspections once a year and if there are any complaints the applicants will have a problem when they apply to renew.

Mr. Hokans expressed lingering concern.

Robert Martellucci agreed that if the Applicant guaranteed that she would have someone outside at all times when the outdoor tables are in use, that should help maintain a tame atmosphere. His primary concern is noise and the loud bass thumping the residents at Sunrise Terrace can hear whenever the door to the restaurant is open.

Mr. Sowa noted that waitresses go in and out when delivering food. He asked for specific confirmation that the Applicant will have a staff person outside "at all times". Not just wait staff coming out to take orders and deliver food.

Ms. Orser confirmed that they will have a staff person outside whenever the outdoor tables are being used. She noted that this will be for her protection as well.

**Mr. Hokans Moved to Approve the Application of POST ROAD TAVERN - 705 Main Street (Map12 Lot 13) – Site Plan Review for Change of Use of post 1930 structure. Application to change from Type 1 to Type 2 Restaurant and placement of four (4) outdoor tables and chairs, with the condition that the Applicant keeps a staff member in attendance at the outside tables at all times the outdoor tables are in use, to monitor customer behavior.  
HOKANS/SOWA 4/0 UNANIMOUS**

Mr. Yurko noted that if the neighbors have problems they have the right to call the police, they also have the right to call the Post Road Tavern to discuss noise problems.

**F. NEW BUSINESS – None**

**G. CODE ENFORCEMENT OFFICER BUSINESS – None**

**H. OTHER BUSINESS – None**

**I. ADJOURNMENT -**

**Mr. Hokans Moved to Adjourn at 6:45 p.m.  
HOKANS/TITMAN 4/0 UNANIMOUS**

Respectfully Submitted

Maryann Stacy  
Recording Secretary

*Approved on June 14, 2010*