

**OGUNQUIT PLANNING BOARD MINUTES
REGULAR BUSINESS MEETING
AUGUST 23, 2010**

A. ROLL CALL –

The roll was called with the following results:

Members Present: Tim Pinkham, Chairperson
 Hank Hokans
 Greg Titman
 Craig Capone

Members Excused: Richard Yurko, Vice Chairperson

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

C. MINUTES – August 9 2010 Regular Business Meeting.

The Minutes of the August 9, 2010 Meeting were Accepted as Submitted.

D. PUBLIC INPUT –

Jerrold DuPont (14 Wharf Lane - Map 7 Lot 111) addressed the Board. Mr. DuPont is an abutter of Gourmet Express (Map 7 Lot 114) and he has several concerns regarding that business.

Mr. DuPont reminded the Board that on May 11, 2009 the Planning Board granted approval for a take-out restaurant (Gourmet Express) which abuts his home on Wharf Lane. He informed the Board that the restrictions which were placed upon this approval have not been complied with. Tables, which the business owner agreed not to use, are now being used and in fact have candles placed upon them. Gourmet Express is serving food to patrons at tables which were specifically excluded in the Board's 2009 approval. At the Public Hearing, on May 11, 2009, the owner (Robert Pollard) confirmed that they would not seek a liquor license, however last year they did exactly that. This liquor application was subsequently withdrawn for unknown reasons.

Mr. DuPont also expressed concern about the development of "tent cities" where a business erects a temporary tent which becomes permanent by virtue of the fact that it is never removed. This allows a restaurant, or take-out business, to expand on a "temporary" basis that eventually becomes permanent. Mr. DuPont is concerned that Gourmet Express will follow this course of action, particularly since another abutter of the DuPont's' has already done this very thing and got away with it.

Mr. DuPont stated that the Code Enforcement Officer has served the owner of Gourmet Express with a notice of violations. Ms. Pollard has disregarded his instructions to come into compliance, and nothing is being done to correct these violations.

Mr. DuPont was under the impression that the owner of Gourmet Express was planning to attend this meeting and it was his hope that he would have the opportunity to speak with her and resolve some of his concerns, however she chose not to attend.

Debra DuPont addressed the Board and clarified that the take-out restaurant which is causing her family concern is Gourmet Express. Ms. DuPont provided the Board with photographs which her family took of the illegal tables in use. At the Public Hearing (May 11, 2009) Sue Pollard, the owner of the Gourmet Express, was not present however her husband was in attendance and acted as her representative. Mr. Pollard specifically stated at the May 11, 2009 meeting that they had no plans to use the tables which were used for Sea Chambers' breakfast guests, nor would they add any additional tables, furthermore they agreed to post a sign indicating that patrons of Gourmet Express were restricted to those tables on the patio and were not to use the tables on the lawn. From the beginning Gourmet Express has not only used the tables they agreed not to use, but they have replaced benches with additional tables and have placed candles upon these tables. Also, no sign instructing patrons to restrict table use to the patio has ever been posted.

Also at the May 11, 2009 meeting Mr. Pollard stated that they had no intention of ever applying for a liquor license. They did apply for a liquor license in 2010. This application was tabled at the Select Board meeting and was subsequently withdrawn by the applicant.

Mr. Lempicki confirmed that the DuPonts' statements are correct. From the date that she opened Ms. Pollard has not complied with the Board's, or Town Zoning, requirements. The Board was provided with a letter dated August 17, 2010 which he (Mr. Lempicki) sent to Ms. Pollard informing her of the multiple Zoning Ordinance violations, none of which have been corrected. One problem he continues to have with this business is Ms. Pollard's violation of sign requirements. Ms. Pollard is allowed six square feet (6²ft) of signage, she currently has just less than forty square feet (40²ft) of signage. In addition Ms. Pollard opened a "bring your own bottle" club whereby patrons are allowed to bring their own bottle of wine etc to consume with their dinner. This is not permitted in Ogunquit. Mr. Lempicki's course of action will be to confer with the Town Manager and begin legal proceedings to force compliance. Last week Ms. Pollard informed him that she would be at this meeting to request a change in the original Board approval, which is why Mr. DuPont and his daughter are here.

Mr. Pinkham asked if "bring your own bottle" is allowed under the State Liquor Statutes.

Mr. Lempicki responded that it is, however Ogunquit's ordinances are stricter than the State's. Ogunquit's Business Ordinance specifically prohibits bottle clubs.

Mr. Pinkham stated that they need to be sure they aren't confusing a "bottle club" with a restaurant where patrons are allowed to carry-in and carry-out their own wine.

Mr. Pinkham asked for the rule regarding menu posting.

Mr. Lempicki responded that menu signs are not counted as part of the allowed six square feet of signage (6²ft). He added that the sign instructing patrons to sit only on the patio was never put up, also the benches to the rear were removed and replaced with tables which her patrons utilize. Ms. Pollard has informed him that she has no control over these tables, however her patrons do use them.

Mr. Pinkham reminded everyone that the purpose of the Planning Board is to create policy and create changes to those policies. It is the duty of the Code Enforcement Officer to uphold what the Planning Board approves. This is the protocol that is in place and it should be followed.

Mr. DuPont stressed that he has lived in Ogunquit for 38 years and the idea of the use of tents to change and/or circumvent the requirements for a businesses space is frightening to him. He is concerned that a take-out restaurant can put up a tent and expand, and this will occur unless the Planning Board and Select Board pay attention to the erecting, and use, of these “temporary structures”.

E. **UNFINISHED BUSINESS** – None

F. **NEW BUSINESS** –

1. **KENNETH and LORETTA WALSH – 9 Application to build an 18’x24’ and 2’x5’ addition to an existing house.**

Loretta Walsh addressed the Board. They live at 9 Black Boar Drive and they want to put an addition on the house which will consist of a master bedroom, bathroom, and walk in closet.

Mr. Hokans asked if this will be an additional bedroom or if it will be replacing an existing bedroom.

Ms. Walsh responded that it will be an additional bedroom.

Mr. Hokans asked Mr. Lempicki if there was anything that needed to be done when adding another bedroom, particularly with regard to sewer and water.

Mr. Lempicki responded that sewer and water are already there.

Mr. Pinkham asked for confirmation that parking requirements are met.

Mr. Lempicki responded that they are.

Mr. Hokans asked if all setbacks are met.

Mr. Lempicki responded that they are.

Mr. Titman pointed out a small area not shown on the plans which appears to be part of the living area.

Mr. Capone confirmed that it is part of the plans.

Mr. Titman asked if the Board needed input from Town Department Heads.

The Secretary responded that Department Heads are only consulted for Site Plan Reviews; this particular application only involves Design Review.

At this time the Board reviewed the Design Review Checklist and found it to be complete.

**Mr. Hokans Moved to Approve the Application of KENNETH and LORETTA WALSH – 9 Black Boar Drive – Map 7 Lot 13-2 – GBD1. Design Review for a post 1930 structure. Application to build an 18’x24’ and 2’x5’ addition to an existing house.
HOKANS/CAPONE 4/0 UNANIMOUS**

G. **CODE ENFORCEMENT OFFICER BUSINESS** –

Mr. Lempicki asked if the Board still intended to hold it's workshop on outside seating/ outdoor dining at the next meeting and if they wanted the Town Planner to be there.

Mr. Pinkham confirmed that the workshop will be held as planned and that the Town Planner's presence would be helpful.

Mr. Hokans asked about the status of the application for the property at 297 Main Street.

Mr. Lempicki responded that the applicants have not yet submitted the required survey, so the only thing they are allowed to do at this time is the indoor work. They still have to come back before the Planning Board for Site Plan Review for the outside work.

Mr. Hokans stated that it appears to him as if the project has been completed.

Mr. Lempicki agreed to visit the site first thing in the morning and check on the status.

H. OTHER BUSINESS –

Mr. Pinkham reminded everyone that there will be a workshop at 6:00 p.m. on September 13th regarding the verbiage for defining outdoor seating vs. outdoor dining. The Board's regular business meeting will begin at 7:00 p.m. that night.

Mr. Hokans asked about Mr. DuPont's concern about tents.

Mr. Lempicki responded that Ms. Pollard put up an awning, not a tent. Commercial businesses are not allowed to put up tents, they are however allowed to put up awnings which is what Ms. Pollard has done. As long as the awing is attached to the building and is not free standing it is allowable with proper permits.

Mr. Capone asked about the word "temporary".

Mr. Lempicki responded that awnings are not temporary.

I. ADJOURNMENT -

**Mr. Hokans Moved to Adjourn at 6:30 p.m.
HOKANS/TITMAN 4/0 UNANIMOUS**

Respectfully Submitted

Maryann Stacy
Recording Secretary

Approved on September 13, 2010