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Thomas A. Fortier
Town Manager

**OGUNQUIT PLANNING BOARD MINUTES
OCTOBER 28, 2013**

PUBLIC HEARING

1. **JACQUELINE BEVINS / JACKIE'S TWO – 91 Perkins Cove Road – Map 3 Block 67-1 – Site Plan Review Application for a post 1930 structure. Application to add upstairs seating inside and outdoors.**
1. Mr. Simpson asked if there was anyone who wished to speak for, or against this application. There being no one the Public Hearing was closed at 6:02 p.m.

REGULAR BUSINESS MEETING

A. ROLL CALL –

The Roll was called with the following results:

Members Present: Don Simpson (Chair)
 Rich Yurko (Vice Chair)
 Mark Renaud
 Jackie Bevins

Also Present: Scott Heyland, Ogunquit Code Enforcement Officer
 Lee Jay Feldman, Town Planner SMRPC

B. PLEDGE OF ALLEGIANCE -

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

D. MINUTES – October 14, 2013

Mr. Yurko Moved to Approve the Minutes of the October 14, 2013 Meeting as Amended.

YURKO/BEVINS 4:0 UNANIMOUS

E. PUBLIC INPUT –

Jerry DeHart asked the Board to consider reviewing and updating the Site Plan Review Submissions Checklist. Mr. DeHart suggested that the submission checklist is more

applicable to subdivisions than to the majority of Site Plan Reviews which come before the Board. He noted that there are many items on the checklist which are not applicable to the majority of site plan reviews.

Mr. Yurko agreed that a review of the form may be in order.

F. UNFINISHED BUSINESS –

- 1. WINDWARD SUBDIVISION – Map 15 Block 53-COM – Request for Amendment to 1999 Conditions of Approval. Request to discontinue nitrogen water testing.**
Planning Board Action: Approval or Denial.

Mr. Simpson noted that he has been a member of the Windward Home Owners' Association Board and he recused himself and left the auditorium.

Mr. Yurko took over as Chair.

Gary Latullip addressed the Board as the Applicants' representative. He summarized that they are asking for an amendment to the June 1999 Subdivision nitrogen water testing requirements. He noted that this request is supported by the Ogunquit Conservation Commission. Testing has been done quarterly by Nelson Laboratories since 1999 and the nitrogen levels have remained consistent over time. They will continue testing for e-coli and fecal-coliform, however it has been determined that the sources of those contaminations are from wildlife, primarily water fowl, which are living upland from Windward.

Mr. Yurko clarified that when the subdivision was approved in June of 1999 one of the conditions of approval was that there be three types of testing. Now the Windward Subdivision is asking to eliminate one of the three tests (Nitrogen) and that the Conservation Commission agrees with the request.

Mike Horn from the Conservation Commission confirmed that the Commission supports this application.

Mr. Feldman asked if the subdivision has been "built out".

Mr. Latullip responded that he believes that there are a couple of lots left, that it is over 90% developed.

Mr. Feldman asked if the Association has voted to discontinue the testing.

Mr. Latullip responded that this will be cost saving for the Association.

Ms. Bevins Moved to Approved the Amendment Request to Discontinue the Nitrogen Water Testing.
BEVINS/RENAUD 3:0 (Mr. Simpson recused)

Mr. Simpson returned to the Board.

- 2. PHILIP CAVARETTA – 79 Main Street – Map 17 Block 55 – Request to Amend Design Review Approval Granted on August 26, 2013. Change to roofline.**
Planning Board Action: Approval or Denial.

Mr. Simpson noted that the roof is already in place and he asked Mr. Heyland to explain.

Mr. Heyland responded that the Applicant is seeking to change the roofline to what the Ogunquit Historic Preservation Commission had originally recommended. He stated that the walls were already up and in the interest of protecting the structure he explained to Mr. Cavaretta that he could continue with the roof however the Board needed to approve the new design and Mr. Cavaretta continued at his own risk.

Mr. Yurko Moved to Approve the Amendment.
YURKO / BEVINS 4:0 UNANIMOUS

- 3. JACQUELINE BEVINS / JACKIE'S TWO – 91 Perkins Cove Road – Map 3 Block 67-1 – Site Plan Review Application for a post 1930 structure.**
Application to add upstairs seating inside and outdoors.
Planning Board Action: Approval or Denial.

Ms. Bevins recused herself and left the auditorium.

Jerry DeHart addressed the Board on the Applicant's behalf. He noted that there has been some discussion regarding a memo to the Planning Board by J.T. Lockman in 2009 which implied that 8% of the 30% allowable expansion had been used at that time. Mr. Dehart noted that there has never been a complete survey and it is his assertion that only 2% expansion has been utilized and he has factored this into his calculations for this current project.

Mr. Heyland explained that 30% expansion is allowed in the Shorland District for that portion of the building which is under the setback. He (Mr. Heyland) reviewed the file of previous projects at this building. He discovered Mr. Lockman's memo which asserted that the 1999 expansion of the 2nd floor office space utilized approximately 8%.

Mr. DeHart responded that no survey was ever done and Mr. Lockman's 8% was only a guess. He (Mr. DeHart) now asserts that it was only 2% expansion and he has included this 2% in his current calculations. He stated that he is asking for the full 30% expansion for the current project and he confirmed that this will max out the allowable expansion for this property.

Mr. Heyland noted that the 30% expansion is cumulative since 1989. All projects which include expansion since 1989 have to be deducted from that 30% and thus from what can be done today. He asked Mr. DeHart to confirm that he is saying that the post 1989 expansion is zero.

Mr. DeHart responded that his best estimate is that previous construction utilized 2% of the allowable expansion and if the pending application is approved then the property will be at 30% and there can be no further expansion.

Mr. Heyland agreed with the 2% however he is unsure of any other projects since 1989.

Mr. DeHart responded that when his surveyor did the calculations for the overlay it was confirmed that they will not exceed the total 30%. He (Mr. DeHart) has taken into consideration previous projects and has included additions into his current calculations. He offered to get a letter from the surveyor for the file.

Mr. Simpson noted that the Applicant also has a waiver request for the 8.13 Traffic Impact Requirements as well as waiver requests for submission requirements.

Mr. Yurko noted that Article 6.6.T requires the submittal of an estimate of traffic generated. Which is applied in 6.6.U to determine whether or not a traffic impact analysis needs to be done. However the Board has the authority to waive this requirement if the trips generated are between 50 and 150 trips per day. Mr. Yurko noted that the expansion of 640 square feet includes a new stairway and ADA bathrooms.

Mr. Feldman added that this type of restaurant is estimated to generate 73.5 to 246 trips per 1000 square feet, for average daily traffic. Given the proposed project here, Mr. Feldman suggested that they probably don't even meet the 50 trips per day threshold for the Traffic Study requirement.

The Board members agreed, and confirmed that a traffic impact analysis is not required in this case.

Mr. Simpson noted for the record that the life safety issues will be addressed by the State Fire Marshall and the Code Enforcement Officer.

Mr. Yurko Moved to Approve the Site Plan for JACQUELINE BEVINS / JACKIE'S TWO – 91 Perkins Cove Road – Map 3 Block 67-1, and grant the submission waiver requests.

YURKO/RENAUD 3:0 (Ms. Bevins recused)

Ms. Bevins returned to the Board.

- 4. OGUNQUIT PLAYHOUSE FOUNDATION – 42 Main Street – Map 5 Block 42 – Site Plan and Design Review for two post 1930 structures. Application for change of use from office space to 5 boarding house units. Demolition of existing hotel and construction of a new 45 unit boarding house. Site improvements to driveways, parking areas, grading, drainage, utilities, landscaping, and lighting.**
Planning Board Action: Confirm completeness, determine traffic study and parking requirements, schedule Public Hearing.

Mr. Simpson noted that at the last meeting there was a great deal of discussion regarding parking and the concern over what would happen if the property was ever sold. The Playhouse has submitted a plan to utilize parking spaces at the Playhouse proper for the use of the residents of the new boarding house. At the last meeting the Board had requested documentation confirming that if the Boarding House was ever sold those parking spaces would be part of that sale.

Peter Lewis, Director of Operations for the Playhouse addressed the Board. He responded that such a thing would require a change in the Playhouse By-Laws which prohibit any encumbrance to the Playhouse proper. He noted that he has a prescribed easement prepared by a local attorney, which is referenced in the plan. In the event of a sale the new owner would have to come before the Planning Board.

Mr. Lewis stated that they have 36 parking spaces set aside for the boarding house at the Playhouse proper, and that there are an additional 15 parking spaces at the new boarding house.

Mr. Yurko summarized that if the boarding house were sold, it would not have enough parking to be used as a hotel, which is a natural use for it. There are parking spaces at the Playhouse Proper for the boarding house, however the Applicant is hesitant to grant a full easement because it would violate the Playhouse By-Laws.

Mr. Lewis agreed and added that they currently have a prescribed easement which would not survive a sale of the boarding house property.

Mr. Yurko responded that this does not address the concern of parking in a post sale situation. He suggested that it would be better to address this issue now rather than put it off onto a future Board which may, or may not, know what was in this current Board's mind. He also suggested that Mr. Lewis should be prepared to come back, at the Public Hearing, with some solution to the Board's dilemma.

Mr. Feldman suggested that the Board might deal with this issue as a condition of approval which, should there be a future sale, would require the new owners to come before the Planning Board for approval of any change of use. He noted that records today are more detailed and better archived than they were in the past which will assist any future Board. He noted that this may not resolve the issue however it will help move this application alone more quickly.

Mr. Yurko noted that the question involves Section 8.10.D.3 which states that: *“Required off-street parking in all residential and business districts shall be located on the same lot as the principal building or within 100 feet measured along lines of access for business and industry except where it cannot reasonably be provided on the same lot, the Planning Board may authorize residential off-street parking to be located on another lot within 300 feet of the residential uses, as measured along lines of public access. Such parking areas shall be held under the same ownership or lease as the uses served and evidence of such control or lease shall be required. Arrangements for parking on leased land shall not be acceptable for meeting the minimum required parking provisions of this Ordinance unless the lessee is specifically given the option of renewing the lease indefinitely.”* He suggested that if the boarding house property is sold, and the use does not change dramatically then something nearby must be done.

Mr. Lewis responded that if the property was sold then a lease would have to be negotiated at that time.

Mr. Yurko Moved to Find the Application Complete and Schedule the Public Hearing for November 25th.

YURKO / BEVINS 4:0 UNANIMOUS

Mr. Simpson asked if Mr. Lewis was comfortable with the November 25th Public Hearing.

Mr. Lewis agreed.

G. NEW BUSINESS – None

H. CODE ENFORCEMENT OFFICER BUSINESS – None

I. OTHER BUSINESS –

Mr. Simpson noted that he had asked the Board members to think about which past applications the Board may look at.

Mr. Yurko suggested Cornerstone and Main Street.

The Board agreed to look at the Main Street Application at the November 25th meeting to review the Board's actions.

Ms. Bevins asked what the Board will accomplish.

Mr. Yurko responded that it will be an evaluation of the Board's own performance. It will not be a reopening of the application or criticism of the project.

Ms. Bevins asked what will happen if the Board reveals problems with the application.

Mr. Yurko responded that there is no open application before the Board and there is no action the Board can take other than a self critique.

J. ADJOURNMENT -

**Mr. Yurko Moved to Adjourn at 7:06 p.m.
YURKO/RENAUD 4:0 UNANIMOUS**

Respectfully Submitted
Maryann Stacy
Maryann Stacy
Recording Secretary

Approved on December 9, 2013