

OGUNQUIT PLANNING BOARD MINUTES JANUARY 13, 2014

REGULAR BUSINESS MEETING – 6:00 p.m.

A. ROLL CALL –

The Roll was called with the following results:

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

Members Excused: Don Simpson (Chair)

Also Present: Scott Heyland, Ogunquit Code Enforcement Officer
Natalie Burns, Esq. (Ogunquit Town Counsel)

B. PLEDGE OF ALLEGIANCE -

C. MISSION STATEMENT – The Mission Statement was ready by Mr. Yurko.

D. MINUTES – December 9, 2013

**Mr. Renaud Moved to Approve the Minutes of the December 9, 2013 Meeting as Amended.
RENAUD/BEVINS 3:0 UNANIMOUS**

E. PUBLIC INPUT –

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

F. UNFINISHED BUSINESS –

1. **PERKINS COVE LOBSTER POUND / WAYNE PERKINS – 324 Shore Road – Map 3 Block 4-5 – Design Review and Site Plan Review for a post 1930 structure, Change of Use from residence to retail lobster pound.
Approved on April 9, 2012.
Remanded from Superior Court back to the Ogunquit Planning Board on October 2, 2013.
*Planning Board Action: Re-evaluate December 9, 2013 determination of adequacy of Site Plan Review Submissions and Acceptance of Waiver Requests.***

Mr. Yurko noted that this matter had been remanded back to the Planning Board from the Superior Court. It has been suggested that the Board reconsider its vote from the December 9, 2013 meeting.

Mr. Renaud Moved to reconsider the prior (December 9, 2013) vote on the waivers for the above-noted Application.

RENAUD/BEVINS 3:0 UNANIMOUS

Mr. Yurko summarized that the Board would examine the Applicant's Site Plan Review Submission Waiver Requests, the Board would also examine the Design Review Submissions. He noted that this meeting would not be a Public Hearing. This Application had a long and extensive Public Hearing in 2012.

Mr. Yurko asked if there was any Board member who felt that another Public Hearing is needed. No one did.

Mr. Yurko noted for the record that the Board had received a letter (dated January 9, 2014) from counsel (Attorney Shumadine) for an abutter (James and Patricia Hartwell). Mr. Yurko confirmed that the letter had been distributed to the Board members who have all reviewed it and that it would be made a part of the record.

Mr. Yurko suggested the Board consider the Site Plan Review Waiver Requests first, separate from the Design Review Submissions Standards. He noted that, at the December 9, 2013 meeting the Board approved all of the Site Plan Submission Waiver Requests. He now suggested the Board review each waiver request separately and apply the standards of the Zoning Ordinance (Article 6.6.4). A waiver request may be granted only if the "Board finds that strict compliance with the required application submissions would unduly burden the applicant or be excessive in light of the nature of the proposed structure or activity or where there are special circumstances of a particular plan...".

Mr. Yurko referred to the first standard as "unduly burdensome/excessive, the second standard as "special circumstances". The Board also has to make a determination that granting the waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance. Mr. Yurko agreed to read each of the waiver requests and ask the Board for a determination of the above noted factors:

Item 6.6.C.3.G – Utilities, Sewers, Water Mains, Culverts, and Storm Water Management.

"These Utilities are already onsite"

Mr. Renaud Moved to Grant the Requested Waiver based upon the fact that the utilities are already on site and that strict compliance would be unduly burdensome to the Applicant, and granting of said waiver would not nullify the intent and purpose of the Zoning Ordinance.

RENAUD/BEVINS 3:0 UNANIMOUS

Item 6.6.C.3.H – Two-foot contours.

"Project requires no change to existing contours".

It was noted by the Board that there will be no changes to the existing contours.

Mr. Renaud Moved to Grant the Requested Waiver based upon his belief that strict compliance would be unduly burdensome or excessive to the Applicant.

RENAUD/BEVINS 3:0 UNANIMOUS

Mr. Renaud Moved to find that the granting of said waiver would not nullify the intent and purpose of the Zoning Ordinance.

RENAUD/BEVINS 3:0 UNANIMOUS

Item 6.6.C.3.J – High Intensity Soil Survey.

“The project involves an already developed lot”

It was noted by Mr. Yurko that this is a very limited project which involves an already fully developed lot.

Attorney Burns noted that this particular standard applies to undeveloped vacant areas which are not served by public water and sewer.

Mr. Yurko reminded everyone that this project involves a two hundred square foot garage of which only one hundred and forty square feet will be open to the public.

Mr. Renaud Moved to grant the requested waiver based upon his belief that strict compliance would be unduly burdensome or excessive in nature of the project.

RENAUD/BEVINS 3:0 UNANIMOUS

Mr. Renaud Moved to find that the granting of said waiver would not nullify the intent and purpose of the Zoning Ordinance.

RENAUD/BEVINS 3:0 UNANIMOUS

Item 6.6.C.3.L – The boundaries of any flood hazard areas and the 100 year flood elevation.

“This location is not located in any flood zone”.

Mr. Renaud Moved to grant the requested waiver based upon his belief that strict compliance would be unduly burdensome or excessive in light of the nature of the activity or structure.

RENAUD/BEVINS 3:0 UNANIMOUS

Mr. Renaud Moved to find that the granting of said waiver would not nullify the intent and purpose of the Zoning Ordinance.

RENAUD/BEVINS 3:0 UNANIMOUS

Item 6.6.C.3.M – A copy of any proposed deed restriction.

“There are no deed restrictions for this property”

Mr. Renaud Moved to take no action based upon the Applicant’s assertion that there are no deed restrictions proposed for the property.

RENAUD/BEVINS 3:0 UNANIMOUS

Item 6.6.C.3.N.i – Sewer Service area.

“The project does not involve any change to existing sewage system”.

**Mr. Renaud Moved to grant the requested waiver based upon his belief that strict compliance would be unduly burdensome and excessive in light of the proposed project.
RENAUD/BEVINS 3:0 UNANIMOUS**

**Mr. Renaud Moved to find that the granting of said waiver would not nullify the intent and purpose of the Zoning Ordinance.
RENAUD/BEVINS 3:0 UNANIMOUS**

Item 6.6.C.3.N.ii – Septic System Design.

“This item is not applicable as this property is hooked up to public sewer”

**Mr. Renaud Moved to take no action on this item because it is not applicable.
RENAUD/BEVINS 3:0 UNANIMOUS**

Item 6.6.C.3.O.i – Water Service Area.

“The project does not involve any change to existing public water system”

**Mr. Renaud Moved to grant the requested waiver based upon his belief that strict compliance would be unduly burdensome to the Applicant.
RENAUD/BEVINS 3:0 UNANIMOUS**

**Mr. Renaud Moved to find that the granting of said waiver would not nullify the intent and purpose of the Zoning Ordinance.
RENAUD/BEVINS 3:0 UNANIMOUS**

Item 6.6.C.3.O.i – Approval of hydrant location.

“This project does not involve any new construction”

**Mr. Renaud Moved to table this request for waiver and deem the submission requirement inapplicable given that there is no new construction planned for this project.
RENAUD/BEVINS 3:0 UNANIMOUS**

Item 6.6.3.O.ii – Outside water service area.

“This project does not involve any outside water source.

**Mr. Renaud Moved to grant the requested waiver based upon his belief that strict compliance would be unduly burdensome and excessive to the Applicant.
RENAUD/BEVINS 3:0 UNANIMOUS**

**Mr. Renaud Moved to find that the granting of said waiver would not nullify the intent and purpose of the Zoning Ordinance.
RENAUD/BEVINS 3:0 UNANIMOUS**

Item 6.6.3.P – Locations, names, and present widths of existing streets, highways, easements, building lines, parks and other open spaces.

“This item is beyond the scope of this project”.

It was noted by Town Counsel that a survey had been submitted with the original 2012 application. This survey does have a scale, it shows Shore Road and the location of the building

on the property; furthermore, it has been stated that there are no easements on the property. Attorney Burns also pointed out that there do not appear to be any open spaces in the vicinity.

**Mr. Renaud Moved to deem this item satisfied, thus there is no need for a waiver.
RENAUD/BEVINS 3:0 UNANIMOUS**

Item 6.6.3.Q – Width and location of any streets, public improvements or open space shown upon the official map and in the comprehensive plan, if any, within the site.

“This item is beyond the scope of this project”

It was noted by Town Counsel that a survey had been submitted with the original 2012 application which included streets and public improvements and that there are no open spaces in the vicinity of the subject property.

**Mr. Renaud Moved to deem this item satisfied, thus there is no need for a waiver.
RENAUD/BEVINS 3:0 UNANIMOUS**

Item 6.6.3.R – Location of any open space to be preserved and description of proposed ownership, improvements and management.

“This item is beyond the scope of this project”.

Mr. Yurko noted that there is no proposed open space to be preserved.

**Mr. Renaud Moved to grant the requested waiver based upon his belief that strict compliance would be unduly burdensome to the Applicant, and the granting of said waiver would not nullify the intent and purpose of the Zoning Ordinance.
RENAUD/BEVINS 3:0 UNANIMOUS**

Item 6.6.3.S – Hydrologist assessment prepared by certified geologist or Registered Professional Engineer – outside of public water and sewer areas.

“This item is beyond the scope of this project”.

Mr. Yurko noted that there is no new construction planned for the site.

**Mr. Renaud Moved to grant the requested waiver based upon his belief that strict compliance would be unduly burdensome to the Applicant, and the granting of said waiver would not nullify the intent and purpose of the Zoning Ordinance.
RENAUD/BEVINS 3:0 UNANIMOUS**

Item 6.6.3.T – An estimate of the amount and type of vehicular traffic to be generated on a daily and at peak hours.

“Any spaces for this project already exist by Perkins Parking Lot”.

Mr. Yurko stated that the size and scope of the change of use is so small that no estimate of vehicular traffic is required.

**Mr. Renaud Moved to grant the requested waiver based upon his belief that strict compliance would be unduly burdensome to the Applicant, and the granting of said waiver would not nullify the intent and purpose of the Zoning Ordinance.
RENAUD/BEVINS 3:0 UNANIMOUS**

Item 6.6.3.U – Traffic impact analysis prepared by registered professional engineer with experience in traffic engineering (for projects requiring 10 or more traffic spaces or projected 50 or more trips per day).

“This project involves the renovation of a single car garage whose square footage requires no more than 2 parking spaces”.

Mr. Renaud Moved to grant the requested waiver based upon his belief that strict compliance would be unduly burdensome or excessive to the Applicant, and the granting of said waiver would not nullify the intent and purpose of the Zoning Ordinance.

RENAUD/BEVINS 3:0 UNANIMOUS

Mr. Yurko noted for the record that the Board had extensive discussion on a similar application where there was greater square footage and a waiver was granted in that case.

Item 6.6.3.V – Area within or adjacent to the proposed site which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the comprehensive plan.

“This item is beyond the scope of this project”.

Mr. Renaud Moved to grant the requested waiver based upon his belief that strict compliance would be unduly burdensome to the Applicant, and the granting of said waiver would not nullify the intent and purpose of the Zoning Ordinance.

RENAUD/BEVINS 3:0 UNANIMOUS

Item 6.6.3.W – Historic areas within or adjacent to the proposed site which are either listed on or eligible to be listed on the national Register of Historic Places, Ogunquit Historic Register, or have been identified in the comprehensive plan.

“This item is beyond the scope of this project”.

Mr. Yurko noted that this building was constructed post 1930 and that none of the surrounding buildings have historic significance or are eligible for inclusion on the National Register of Historic Places or the Ogunquit Historic Register.

Mr. Renaud Moved to grant the requested waiver based upon his belief that strict compliance would be unduly burdensome to the Applicant, and the granting of said waiver would not nullify the intent and purpose of the Zoning Ordinance.

RENAUD/BEVINS 3:0 UNANIMOUS

Item 6.6.3.Y – Stormwater Management Plan

“This item is beyond the scope of this project”.

Mr. Yurko noted that there will be no changes to the outside of the structure.

Mr. Renaud Moved to grant the requested waiver based upon his belief that strict compliance would be unduly burdensome or excessive given the nature of the project, and the granting of said waiver would not nullify the intent and purpose of the Zoning Ordinance.

RENAUD/BEVINS 3:0 UNANIMOUS

Item 6.6.3.Z – Erosion and sedimentation control.

“This item is beyond the scope of this project”.

Mr. Yurko again stated that there will be no changes to the impervious surfaces and all changes will be interior.

Mr. Renaud Moved to grant the requested waiver based upon his belief that strict compliance would be unduly burdensome and excessive in light of the small scope of the

project, and the granting of said waiver would not nullify the intent and purpose of the Zoning Ordinance.

RENAUD/BEVINS 3:0 UNANIMOUS

Item 6.6.3.AA – Location of any streets, public improvements or open spaces shown in the Comprehensive Plan or capital improvements plans, within the site.

“This item is beyond the scope of the project”

Mr. Yurko again noted the survey submitted by the Applicant with the original 2012 application.

Mr. Renaud Moved to deem this item satisfied and no waiver required.

RENAUD/BEVINS 3:0 UNANIMOUS

Item 6.6.3.BB – Parcels of lands proposed to be dedicated to public use and the conditions of such dedications.

“This item is beyond the scope of the project”

Mr. Renaud Moved to grant the requested waiver based upon his belief that strict compliance would be unduly burdensome to the Applicant, and the granting of said waiver would not nullify the intent and purpose of the Zoning Ordinance.

RENAUD/BEVINS 3:0 UNANIMOUS

Item 6.6.3.CC – Locations/method of land clearing and construction debris disposal.

“This item is beyond the scope of the project”

Mr. Yurko noted that no land clearing has been proposed for this project.

Mr. Renaud Moved to grant the requested waiver based upon his belief that strict compliance would be unduly burdensome to the Applicant, and the granting of said waiver would not nullify the intent and purpose of the Zoning Ordinance.

RENAUD/BEVINS 3:0 UNANIMOUS

Item 6.6.3.DD – Cost estimates for setting performance guarantees, pursuant to Section 4.8.

“This item is beyond the scope of the project”

Mr. Yurko noted for the record that the Applicant had submitted a cost estimate with his application for \$20,000.

Attorney Burns also pointed out that there is no proposal for any new structure.

Mr. Renaud Moved to grant the requested waiver based upon his belief that strict compliance would be unduly burdensome to the Applicant, and the granting of said waiver would not nullify the intent and purpose of the Zoning Ordinance.

RENAUD/BEVINS 3:0 UNANIMOUS

Item 6.6.3.EE – State and Federal Permits.

“This item is beyond the scope of the project”

Mr. Renaud Moved to grant the requested waiver based upon his belief that strict compliance would be unduly burdensome to the Applicant, and the granting of said waiver would not nullify the intent and purpose of the Zoning Ordinance.

RENAUD/BEVINS 3:0 UNANIMOUS

Mr. Yurko summarized that the Board has reviewed all of the requested waivers as submitted by the Applicant.

Ms. Bevins Moved to Reaffirm the written Decision dated April 23, 2012 which reflected the vote taken on April 9, 2012.

BEVINS/RENAUD 3:0 UNANIMOUS

Regarding the Design Review:

Mr. Yurko referred to Section 11.6.A.1-4 of the Ogunquit Zoning Ordinance and asked the Board members if the submissions on the Design Certificate meet the required submitted criteria:

1. *A site plan showing the subject property and its context;*

Mr. Yurko noted the site plan submitted with the original application.

2. *Elevations of each side of the proposed building to be constructed or altered, at a scale of at least 1/4" = 1 foot, and in the case of alterations, showing conditions before and after the proposed alteration;*

Mr. Yurko stated that the Applicant submitted a photograph of the current exterior conditions and the external change of replacing the standard garage door with a new front entrance type door.

3. *Photographs of the site and existing buildings; and such additional sketches, drawings, photographs, descriptions or other information showing the proposed alterations, additions, changes or new construction as may be required for the Board to make a decision;*

Mr. Yurko noted the photographs of the new door in the file.

Ms. Burns pointed out the plan indicating dimensions of the various structures.

4. *Estimates of the construction cost for proposed new buildings or proposed new building additions.*

Mr. Yurko noted that this project does not involve a new building or addition, the only exterior change will be the replacement of the garage door with a front entrance door. The applicant did submit a \$20,000 estimate for work.

Ms. Burns noted that the Court's Remand Order only required review of subsections 2-4 of Section 11.6.A, it has been agreed that subsection 1 has been met.

Ms. Bevins Moved to Find the Submissions Sufficient to Satisfy Section 11.6.A.2-4.
BEVINS/RENAUD 3:0 UNANIMOUS

Mr. Renaud Moved to Reaffirm the April 9, 2012 Decision.
RENAUD/BEVINS 3:0 UNANIMOUS

Mr. Yurko asked Ms. Burns if the Board's actions regarding Design Review are sufficient to satisfy the Court Order.

Ms. Burns responded that it is her opinion that the Board has addressed all the issues noted in the Court's Remand Order.

G. NEW BUSINESS – None

H. CODE ENFORCEMENT OFFICER BUSINESS – None

I. OTHER BUSINESS –

1. Discussion regarding Workshop - A Review of Article 8.12 of the Ogunquit Zoning Ordinance – Signs.

Mr. Yurko noted that the Board held a workshop earlier this evening, and he asked the Board to table discussion of this issue to a later date.

Mr. Renaud Moved to Table discussion of the workshop to a later date.

RENAUD/BEVINS 3:0 UNANIMOUS

J. ADJOURNMENT -

Mr. Renaud Moved to Adjourn at 7:08 p.m.

RENAUD/BEVINS 3:0 UNANIMOUS

Respectfully Submitted

Maryann Stacy

Maryann Stacy

Recording Secretary

Approved on March 24, 2014