

**OGUNQUIT PLANNING BOARD
REGULAR BUSINESS MEETING
NOVEMBER 14, 2011 6:00 p.m.**

A. ROLL CALL –

The Roll was called with the following results:

Members Present: Tim Pinkham, Chair
 Robert Coles, Vicechair
 Craig Capone
 Don Simpson

Also Present: J.T. Lockman, Southern Maine Regional Planning Commission
 Paul Lempicki, Ogunquit Code Enforcement Officer

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

C. MINUTES – October 24, 2011 Regular Business Meeting and November 1, 2011 Site Visit.

The Minutes of the October 24, 2011 and November 1, 2011 Meetings were Accepted as Submitted.

D. PUBLIC INPUT – None

E. UNFINISHED BUSINESS –

Mr. Pinkham noted for the record that applicant Mandy Bruno / Ogunquit Psychic has withdrawn her application.

1. JOSEPH LINDSEY – 49 Bittersweet Lane – Map 21 Block 6 – Subdivision – Sketch Plan Application. Ten (10) Lot Subdivision of 18.4 Acres in the Farmland District. Site Visit held on November 1, 2011

Ken Markley addressed the Board as the Applicant's representative. Mr. Markley referred the Board to the 17 November, 2011 memo from the Conservation Commission, particularly the Commission's concern regarding whether or not Bittersweet Road should be included as part of the "total parcel". When this application was being put together he (Mr. Markley) asked Mr. Lockman whether it was reasonable to assume that because there were individuals utilizing the road who will not be part of the proposed subdivision, and because the road would eventually be transferred to a road association, it should not be included. Mr. Lockman suggested that it was reasonable to exclude it from the total acreage.

If the applicant is forced to include Bittersweet Lane they will have to find an additional acre for open space. Mr. Markley acknowledged that while it is possible find the acreage, it will require the reduction of the home owners' livable space. As a result the Applicant is asking the Board to exempt Bittersweet Lane Access Road from the total parcel calculations.

Mr. Pinkham asked - if the Applicant was forced to find the extra open space, where would it come from?

Mr. Markley responded that they would reduce the size of the individual lots. He suggested that the homeowners may not be inclined to respect the boundary between their own lots and the open space.

Mr. Simpson suggested that the residents wouldn't notice the difference.

Mr. Markley responded that people will utilize the land around their homes whether it is their own land or open space land. Particularly if the open space is brought right up to the yard.

Mr. Coles asked if the Board has jurisdiction to exclude the Bittersweet Lane panhandle.

Mr. Lockman responded that this situation was not anticipated when the Ordinance or the Subdivision Regulations were drafted. He also pointed out that the Board can not waive Zoning Ordinances, however it has much more discretion when applying the Subdivision Regulations. He also noted that it is the Board's job to interpret the language of the Zoning Ordinance however it must apply a very strict interpretation. The Board does have the authority to grant waivers under Subdivision Regulations.

Applying the Zoning Ordinance to this particular application, Mr. Lockman referred to Section 9.6.A.5 which states that: *"At least fifty percent (50%) of the area of the entire parcel or tract shall be included as common open space. Common open space shall not include road rights of way, streets, drives, or parking."* In this case Mr. Lindsey purchased all of the way out to Captain Thomas Road, and he bought in fee the area under an existing road which leads up to this land. Mr. Lockman noted that this project is not a normal subdivision in that Mr. Lindsey's parcel is actually a portion of a third lot which was part of a previously approved subdivision that was approved as a traditional subdivision. Furthermore, the road layout was never recorded, which is why Mr. Lindsey had to buy it.

Mr. Coles expressed his opinion that common sense would suggest the Bittersweet Lane Access Road not be included in the total acreage of the parcel.

Mr. Markley responded that the day this application is approved the access road would probably be sold to a Road Association and it won't be part of the subdivision.

Mr. Lockman added that this is not a new project, this area started to be developed in a traditional format, and now 24 years later the remaining parcel is being cluster developed. He added that another way to gain more land while maintaining the lot sizes would be to drop off one lot.

Mr. Capone asked about the very western end of Bittersweet Lane, and how long that resident has utilized this right-of-way.

Mr. Markley responded that that parcel has had a right-of-way for many years, and it was only clarified in the 1970's. That resident (Stevens) currently has a 30 foot right-of-way in a 50 foot wide area.

Mr. Simpson agreed with Mr. Coles that common sense suggests they may be splitting hairs, however Mr. Simpson noted the importance of protecting the environmental resources in the Town, and suggested that applying excessive leniency to the ordinance may set a precedent that could open the door to more egregious bending of the rules. He noted that when everything is done the applicant will still get the same number of houses whether he includes Bittersweet Lane or not.

Mr. Pinkham noted that it would appear that if a vote was taken the result would be split 2 to 2 and that a majority is required for a motion to pass.

Mr. Markley suggested an alternative. He offered to replace the cul-de-sac with a hammerhead design turnaround. He noted that the use of the hammerhead takes up less space, is better for storm water runoff, and allows wooded areas to come closer to the road. He asked the Board if it would be reasonable for the Applicant to replace the proposed cul-de-sac with a hammerhead turnaround.

Mr. Capone asked if there are any guidelines for the hammerhead design.

Mr. Lockman responded that the cul-de-sac requirement is located in the Subdivision Regulations and as such the Board has the ability to waive that requirement. However the revised design would require the approval of the Fire/Rescue, Police, and Public Works Departments.

Mr. Simpson expressed interest in the hammerhead design, and he agreed that the Board should have input from the Fire, Police, etc.

Mr. Capone asked how much more land would be required for conservation if Bittersweet Lane is not included.

Mr. Markley responded that Bittersweet Lane is approximately two acres in size, and as such they would need to find an additional one acre for open space conservation.

Mr. Horn, Chair of the Ogunquit Conservation Commission addressed the Board and noted that the Commission has no serious problems with the proposed project. He asked the Board to include the access road in the total acreage. He also suggested that the proposed lots are larger than the usual lots offered for sale in Ogunquit and the new owners will not notice a small reduction. He also agreed that the hammerhead design is preferable.

Mr. Pinkham took a poll asking the Board members if they would vote for the hammerhead turnaround or the cul-de-sac. The result was three votes for the hammerhead design and one vote (Mr. Coles) for the cul-de-sac.

Mr. Simpson again called for input from the Town Department Heads on the new hammerhead design.

Mr. Markley stated that the Applicant intends to comply with Ogunquit's storm water permitting section of the Subdivision Ordinance, they will do a full storm water analysis, and they will also do an erosion and sedimentation control plan.

Regarding the culverts, it is their intention to install two smaller culverts: one at the end of the new road by the existing foundation and the other towards the Stevens' property.

Regarding road surface treatment, the Conservation Commission has expressed their preference for gravel vs. hot top and the Applicant would also prefer to use gravel. They will be requesting a waiver from pavement for the entire length of Bittersweet Lane as well as for the new road within the subdivision.

Mr. Pinkham called for a poll, asking whether the Board members prefer gravel or pavement. The Board unanimously voted for gravel.

Mr. Markley asked if they would have to request a waiver from sidewalks.

Mr. Lockman confirmed that, in this case, sidewalks are optional. He referred to section 10.3.6 of the Subdivision Regulations which refers to “sidewalks where installed....” which implies an optional use.

Mr. Coles expressed his opinion that sidewalks are fine when they are in walking distance to Town or within walking distance to other sidewalks. But sidewalks which lead to roads that do not also have sidewalks doesn't make sense.

The Board members unanimously agreed that sidewalks are unnecessary in this project.

Mr. Markley also confirmed that the existing foundation will be a house lot and will not be for commercial use.

Mr. Lockman informed the Board that they might accept the sketch plan and ask for all the open issues to be taken care of at the Preliminary Plan stage, or they might ask for a new sketch to be submitted prior to finding the Sketch Plan Application complete.

The Board determined that the applicant would have to revise the sketch and submit it prior to any finding of completeness.

Mr. Pinkham informed Mr. Markley that he would need to submit revised plans along with a written outline explaining the changes to the plans. He would also need to submit revised calculations for the hammerhead turnaround.

Mr. Capone noted that it appears as if a corner of one of the parcels is in the Shore Land District. He asked what the setbacks are from the river in that zone.

Mr. Lockman responded that it is the Shore Land Residential District.

Mr. Lempicki added that Mr. Capone was looking at an old map, however the setback would be from the mean high tide mark.

Mr. Horn responded that there is no tide on the river.

Mr. Lockman added that it appears as if the Shore Land Limited Residential zone may not even go onto Mr. Lindsey's lot. However if it did the setback is measured from the upland edge of the river.

Mr. Markley informed the Board that he would have the revised plans submitted as soon as possible.

F. NEW BUSINESS –

1. WAYNE FETTE – BLACK BOAR INN – 277 Main Street – Map 7 Block 13-1 – Site Plan Review and Design Review for a pre 1930 structure. Proposed expansion of an existing c. 1960 addition.

Paul Winn addressed the Board as the representative for the Black Boar Inn. Mr. Winn summarized that they are asking for an extension of the existing addition at the back of the building which is used for laundry and storage.

Mr. Coles asked if there is a bulkhead on the back of the building and if it will be moved out.

Mr. Winn responded yes to both questions.

Mr. Pinkham noted that Mr. Lockman had no zoning concerns.

Mr. Lockman agreed and added that the last time there was a plan change for this parcel it was signed by the Board and recorded at the Registry of Deeds in Alfred. Mr. Lockman suggested that any additional changes could be recorded with an affidavit signed by the Board. He suggested Mr. Stein might draft the affidavit outlining the changes.

**Mr. Simpson Moved to find the Design Review and Site Plan Review Application for WAYNE FETTE – BLACK BOAR INN – 277 Main Street – Map 7 Block 13-1 Complete and to schedule the Public Hearing for November 28, 2011.
SIMPSON/COLES 4/0 UNANIMOUS.**

2. DESIGNERS CORNER, INC – COLONIAL INN – 145 Shore Road – Map 6 Block 77 & 81 – Design Review for a pre 1930 structure. Proposed renovation and historical restoration of existing inn.

David Lloyd addressed the Board as the representative for the Applicant. Mr. Lloyd gave a brief overview of the proposed project which involves a renovation of the existing building. This structure is being designated as a National Historic Landmark. They have a historical consultant who has completed phase one of a process to achieve historical tax credits. All of the renovations, both interior and exterior, will require approval from the Maine Historical Commission and the National Park Service in Washington DC.

Mr. Llyod presented several drawings to the Board which he reviewed. All of the vinyl shingles will be replaced with wood, and all of the windows will be replaced with wood painted windows. All of the air-conditioning units will be removed. He noted that all of the existing mechanical etc systems will be replaced, and the existing enclosed porch will be returned to its original form as an outside porch which will include a new stairway and a handicapped lift.

Mr. Lloyd went on to say that there are presently 48 rooms in the hotel, many of which are extremely small. The proposed plan calls for a reduction in rooms from 48 to 26. The existing lounge will remain a lounge and the existing dining area will be converted from a breakfast restaurant to a full service: breakfast, lunch, and dinner restaurant.

Mr. Pinkham asked if they would be changing the roof shape.

Mr. Lloyd responded that they are not.

Mr. Lempicki asked for an explanation of the windows.

Mr. Llyod responded that the window sizes will not be changed, they will all be two-over-two built to match the original windows.

Mr. Lloyd noted that he has met with the State Fire Marshal who signed off on the project.

Mr. Pinkham asked if they would restore the spindle.

Mr. Llyod responded that they originally wanted to restore the turret however they were told that the original style of architecture is called “blockular” and that they need to stay within that framework. The

building started out as a Queen Anne style house which was transformed over time. This structure has had many appearances over the years, and the State agency has selected the blockular style as the most representative.

Mr. Coles asked when the Applicant would be coming back before the Board for a change of use for the restaurant.

Mr. Llyod responded that he was unaware they had to do this.

Mr. Lempicki added that there is an existing restaurant in the hotel, and he stated that the NFPA-96 hood system would need to be replaced.

Mr. Llyod responded that the whole kitchen would be redone.

Mr. Capone asked if the existing kitchen is open to the general public.

Joe Delois, the applicant informed the Board that the existing kitchen is currently used for breakfast for the hotel guests. It is his intention to expand the restaurant and open it up to the public.

Mr. Capone asked why this does not trigger the need for a Site Plan Review.

Mr. Lempicki acknowledged that it would be a change of use and as such it would need a Site Plan Review.

Mr. Delois asked if they might get a permit for the most liberal use even if they do not actually utilize it.

Mr. Lempicki responded that they could and suggested Mr. Delois contact him to apply for Site Plan Review.

Mr. Pinkham informed the Applicant that if he wants to serve liquor he would need the Select Board's approval.

Mr. Delois asked if he could get the Design Review approved so that they can get the Building Permit and proceed with construction by January 1st. Then they will come back to the Board for the Change of Use Site Plan Review for the restaurant at a later date. He noted that they have all the plans and information they will need for this already prepared.

Mr. Pinkham confirmed that they can do this.

Mr. Lempicki informed the Applicant that they do not need a building permit for replacement of the siding, however they do need a permit to replace the windows.

**Mr. Coles Moved to Approve the Design Review for DESIGNERS CORNER, INC – COLONIAL INN – 145 Shore Road – Map 6 Block 77 & 81.
COLES/CAPONE 4/0 UNANIMOUS**

G. CODE ENFORCEMENT OFFICER BUSINESS – None

H. OTHER BUSINESS –

Mr. Pinkham suggested the Board may want to hold a workshop to discuss possible changes to the Zoning Ordinance, particularly the confusion around the 60,000 vs 200,000 square feet required in the Farm District.

I. ADJOURNMENT -

**Mr. Coles Moved to Adjourn at 7:20 p.m.
COLES/CAPONE 4/0 UNANIMOUS**

Respectfully Submitted

Maryann Stacy
Recording Secretary

Approved on November 28, 2011