



**MUNICIPAL OFFICES**  
23 SCHOOL STREET • P.O. BOX 875  
OGUNQUIT, MAINE 03907-0875  
(207) 646-5139      General Offices  
(207) 646-9326      Land Use  
(207) 646-9546      Town Clerk  
E-mail: townofogt@maine.rr.com

## **OGUNQUIT PLANNING BOARD MINUTES MONDAY NOVEMBER 9, 2015**

### **PUBLIC HEARING**

- 1. BLUE WATER INN / LEONA M. LAPIERRE – 111 Beach Street – Map 7 Block 85 – Shoreland General 1 (SG1). Site Plan and Design Review Application to replace a pre-1931 inn/restaurant structure destroyed by fire on April 28, 2015. Replacement will consist of a restaurant, with no rental units or living space.**

Bill Walsh, Walsh Engineering provided a brief overview of the project.

Mr. Wilkos asked if anyone wished to be heard for, or against, this project. There being no one the Public Hearing was closed at 6:09 p.m.

### **REGULAR BUSINESS MEETING**

#### **A. ROLL CALL –**

Mr. Wilkos called the roll with the following results:

Members Present:     Steve Wilkos (Chair)  
                                 Muriel Freedman (Vice Chair)  
                                 Don Simpson  
                                 Jackie Bevins  
                                 Rusty Hayes  
                                 Brian Aromando (2<sup>nd</sup> Alternate)

Members Excused:     Rick Dolliver (1<sup>st</sup> Alternate)

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

#### **B. PLEDGE OF ALLEGIANCE -**

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

#### **D. MINUTES**

**October 26, 2015 Cherry Lane Properties LLC Site Visit.**

**Mr. Simpson Moved to Accept the Minutes of the October 26, 2015 Site Visit as Submitted. SIMPSON/HAYES 4:0 (Ms. Bevins and Mr. Aromando were excused from the Site Visit)**

**October 26, 2015 Public Hearing and Regular Business Meeting.**

**Mr. Hayes Moved to Accept the Minutes of the October 26, 2015 Public Hearing and Meeting.**

**HAYES/BEVINS 5:0 UNANIMOUS**

E. **PUBLIC INPUT** – For any matter NOT already on this Agenda.

Richard Kunz (739 Main Street) addressed the Board. Mr. Kunz purchased his cottage in 2012 although he lives in Texas. He referred to the September 28, 2015 Board meeting when the question of weekly rental properties being required to register as a business was discussed. He informed the Board that the rent he derives from his rental cottage does not approximate the principal taxes and interest, it hardly covers expenses, maintenance, and upkeep. He noted that he cannot manage the rental of the property from Houston and he has retained Maureen Regan from Seaside Rentals to oversee the: screening of applicants, occupancy, and maintenance, she also monitors occupancy, and responds to any issues in a timely manner, she ensures safety measures and insurance are in place. Mr. Kunz also noted that he receives a 1099 Form which is filed yearly.

Mr. Kunz recently changed his insurance carrier. The new carrier provides less coverage at a higher fee, and they limit the timeframe he can rent. He also noted that if the Town regulates and inspects rental properties it will own a piece of the liability. The house currently has four smoke detectors.

Mr. Kunz questioned how enforcement would be handled if weekly renters were required to register as businesses. He expressed his belief that there is a growing animosity towards renters and he questioned where this discussion originated. He asked if Select Board members have instigated this conversation and he asked who they are and if there is any conflict of interest.

Mr. Kunz informed the Board that from April 15<sup>th</sup> through June 25<sup>th</sup> “for rent” signs were removed from his property without forewarning him that the sign was in violation. He contacted Seaside Rental who informed him that the signs were removed by Town Officials who informed them that the sign is not permitted. He received an e-mail from the Code Enforcement Officer who informed him that the sign is required to be removed when the unit is occupied. Mr. Kunz referred the Board members to several photographs which he contended were examples of other violations around Ogunquit.

Mr. Kunz asked: who took the signs? what was the motive and why was he targeted? is there a conflict of interest? or preferential treatment? why did the Town not contact him prior to

removing the signs? when will the signs be returned to Seaside? What is the accountability action involved?

Mr. Wilkos asked if Mr. Heyland wanted to respond.

Mr. Heyland stated that he would not respond at this time but would be happy to meet with Mr. Kunz.

Mr. Kunz refused his offer of a meeting.

Frank Dunbar (3 Myrtle Circle) addressed the Board. Mr. Dunbar disagreed with Mr. Kunz. He is happy that the Board is looking at all the rental properties in town. He informed the Board that homes were built in a field behind his home. These homes are now weekly rental properties which often are occupied by 10 to 15 people. Mr. Dunbar stated the noise is very disruptive. It is Mr. Dunbar's assertion that this is a business. He was informed by the then Code Enforcement Officer that the definition of "business" is found in Webster's Dictionary. Mr. Dunbar expressed concern that the growth of weekly rentals in Ogunquit is particularly disruptive in single family residential districts.

Ms. Maureen Regan from Seaside Vacation Rentals addressed the Board. She informed the Board that it is unusual to have experiences described by Mr. Dunbar. She suggested the Board ask the Police Department how many complaint calls they receive regarding disturbances at their rental units. She agreed that individual owners may be more lax than real estate companies, however she puts restrictions on the number of people occupying the units and she responds immediately to any problems.

**F. UNFINISHED BUSINESS –**

**1. FINDINGS OF FACT FOR:  
SHORE ROAD COMMONS – PHASE II / JOHN MIXON – 5 Bourne Lane – Map 5 Block 35A – Residential District (RD). Subdivision Final Plan Application for Phase II (Units 5-7) of a seven unit condominium subdivision.**

Mr. Simpson recused himself and left the auditorium.

Mr. Wilkos noted that 2<sup>nd</sup> Alternate Brian Aromando was moved to full voting status.

Mr. Aromando recused himself from voting due to his absence from the Shore Road Commons hearings.

**Ms. Bevins Moved to Accept the Findings of Fact for SHORE ROAD COMMONS – PHASE II / JOHN MIXON – 5 Bourne Lane – Map 5 Block 35A – Residential District (RD). Subdivision Final Plan Application for Phase II (Units 5-7) of a seven unit condominium subdivision.**

**BEVINS/HAYES 4:0 UNANIMOUS (Mr. Aromando and Mr. Simpson recused)**

Mr. Simpson rejoined the Board and Mr. Aromando resumed 2<sup>nd</sup> Alternate status.

**2. DAVID GIARUSSO – 661 Main Street (Map 13 Block 50) General Business District 2 (GBD2). Site Plan Review Application for Change of Use from commercial retail to paid parking lot and accessory parking for abutting restaurant (Angelina's).**

Geoff Aleva, Civil Consultants addressed the Board as the Applicant's representative. He noted that after the Public Hearing on October 26<sup>th</sup> he reviewed the Board's comments and requests and he amended the plans as reflected in the newly submitted plans. Mr. Aleva also met with the abutter and made the following changes as requested by him: relocation of the fence line to run the length of the property line to the backside of the existing dumpsters, change of fence type to black vinyl chain link, raised the retaining wall to create a more gradual slope, added plantings, moved light poles further away from the abutter's house, and agreed to use a single light pole mount shining downward.

Mr. Aleva informed the Board that he hired Gorrell Palmer to create a traffic study regarding the three additional parking spaces and the conversion of the lot into a daytime paid parking lot. The resulting report concluded that the proposed conversion of the previous mixed use development to a parking lot would create less traffic on the adjacent roadway system, which will benefit the downtown area the most. Site distances exiting the property exceed the Town and Maine State DOT requirements with the exception of the southern driveway which is obstructed by a temporary sign, which the Applicant has agreed to relocate. The study recommended erection of "Do Not Enter" signs on the exit only driveways which the applicant will do, he also noted that there are no high crash locations in the immediate area.

Mr. Aleva informed the Board that Mr. Feldman had questions regarding peak hours. Gorrell Palmer responded in a memo which Mr. Aleva asked the Board to accept.

Mr. Feldman informed the Board that he stated that there is no true "peak hour". He noted that his Memo to Gorrell Palmer was dated November 3<sup>rd</sup>.

Mr. Wilkos stated that because the memo is only one page and because Mr. Feldman's questions arose after the Board members packets were distributed, the Board would accept Mr. Aleva's handout.

Mr. Aleva read the handout, dated November 4, 2015 (*a copy of which will be maintained in the Applicant's Planning Board File*). He summarized that there will be no "peak hour" and that vehicles coming and going will be staggered, in addition there will be very little vehicle turnover.

Mr. Aleva reiterated that the Applicant has made all the changes requested by both the Board and the abutter.

Mr. Wilkos noted that while the Board is not reopening the Public Hearing he would allow the abutter to be heard.

Mr. Calabro (669 Main Street) informed the Board that he does not want a 6' chain link fence however he has no choice. He asked that the retaining wall be brought up to elevation at the top of his property. He informed the Board that some of his land has already been stolen and asked how much more would be taken. He again complained about the light poles, and asked for 9' tall poles not 20-30 foot poles. He also asked to have the floodlights on the restaurant removed.

He asked for the retaining wall to be brought up to the level of his driveway and backfilled with soil. He asked for a 4' or 5' fence that runs the entire length of the property line. He agreed to a four foot opening so patrons can access Pizza Napoli, he also asked to have the dumpster moved.

Mr. Aleva responded that after a 25 minute discussion with the abutter on the property changes to the plans have been made based on what Mr. Calabro's requests. He (Mr. Calabro)asked for a fence with openings so that it would not block all the wind and it was Mr. Calabro who brought up the black chain link fence. Mr. Aleva noted that the retaining wall will be raised at Mr. Calabro's request. The area will also be loamed, seeded, and regraded. Regarding the dumpster location, that dumpster has been in that location for a long time. It is not a part of this application and the Applicant has no desire to relocate it.

Mr. Aleva stated that the Applicant has done everything he can to accommodate both the abutter and the Board's requests and is now asking the Board to approve this application.

Mr. Wilkos asked if Mr. Aleva would be willing to meet with the abutter again.

Mr. Aleva responded that he does not see anything productive coming from another meeting and the Applicant does not want any further delays.

Mr. Simpson asked Mr. Heyland if this proposal meets all requirements for buffering between commercial and residential. He asked if there is sufficient space for this buffering.

Mr. Heyland responded that Town Ordinances require ½ side setback be maintained as a buffer. The only concern he has is the location of the light posts location within the buffer zone. He suggested the light posts might be moved out of the buffer zone.

Mr. Aromando asked if the lighting discussion is about glare. He referred to Article 8 of the Zoning Ordinance.

Mr. Heyland responded that the lighting may be controlled by shielding or the wattage of the lights, or the poles height may be reduced.

Mr. Feldman noted that the Applicant could be asked to provide a lighting study.

Mr. Armonando asked if zero effect is what they have to obtain.

Mr. Feldman responded that the ordinance does not specify an exact level that constitutes a "dilatatory effect".

Mr. Aromando asked how involved a light study would be.

Mr. Feldman responded that it is involved.

Mr. Aromando asked what the results would be if the Board approves the plan and the result is a disturbance to the abutter.

Mr. Heyland responded that his office would deal with the situation at that time.

Mr. Heyland asked about the current lighting.

Mr. Aleva responded that there are floodlights on the side of Angelina's and the outskirts of the parking lot are dark. The proposed poles will be 20' with a single fixture on each pole, They will be shielded to face downward and they will be on a timer which will turn them off when the restaurant closes. He understands that the lighting is an issue and he believes they have addressed any potential problems.

Mr. Wilkos asked about the process to request a light study.

Mr. Heyland responded that the Board only has to require the applicant do it.

Mr. Simpson stated that he is reluctant to ask the Applicant to do anything else, he thinks the lighting proposal is a good one and he has faith that the Code Enforcement Officer can handle any problems which might arise.

Ms. Freedman agreed with Mr. Simpson. She likes the lighting proposal.

Mr. Wilkos stated that he wants to protect the applicant and he does not think a light study would delay the application. He also noted that the Applicant operated a paid parking lot illegally until cited by the Code Enforcement Officer.

Mr. Hayes agreed with Mr. Simpson and Ms. Freedman.

Ms. Bevins stated that she feels sorry for the neighbor and she agrees with Mr. Wilkos.

Mr. Wilkos asked Mr. Aleva if there is any way to resolve the situation so that the abutter and the Applicant's needs are both met.

Mr. Aleva responded that he doesn't believe there will be any problem. The lighting plan should not produce any glare. The plan calls for LED lights facing down, and there shouldn't be any glare.

Mr. Giarusso informed the Board that if the lights are too bright he will correct the problem.

Mr. Wilkos asked if that would be acceptable to Mr. Calabro.

Mr. Calabro responded that it is not acceptable to him. He again stated that 20' to 30' foot poles will be over the level of his property.

Mr. Aleva clarified that the poles will be 20 feet in height, not 20' to 30'. He also noted that the Applicant needs a resolution so that he can pave the parking lot before the weather prevents it.

Mr. Wilkos asked if the Traffic Study Engineer was present. He was not.

Ms. Bevins stated that what the applicant provided is not what she asked for at the meeting on the 28<sup>th</sup>. She was asked, by Mr. Aleva, if the Board wanted an assessment, and she was very clear that she wanted a full traffic study. She noted that there are other businesses on Route 1 that are closed and the Board doesn't want everyone opening paid parking lots.

Mr. Aleva responded that at the end of the last meeting it was his understanding that the Board did not require a full study which usually includes traffic counts. It was his understanding that the Board was looking to determine the impact this particular parking lot would have on traffic on Route One.

Ms. Bevins disagreed. She stated that her concern is only with the paid parking portion of the application.

Mr. Giarusso stated that he would withdraw that portion of the application involving the paid parking.

Mr. Aleva summarized that the Applicant will withdraw the application for change of use for a paid parking lot and they will come back before the Board with that application in the future.

Mr. Wilkos summarized that the application for the paid parking lot will be withdrawn and the Board will only review the three extra parking spaces for Angelina's.

Mr. Heyland confirmed that the Board will now only review the additional three parking spaces which constitute an expansion of use for accessory parking for Angelina's. This extension of use requires Site Plan Review. He stated that everything, with the exception of the traffic study, applies to the amended Site Plan Review as well.

Mr. Wilkos asked for confirmation that the traffic study is not required.

Mr. Heyland responded that 10 or more parking spaces require a study and this application only involves the addition of 3 parking spaces.

Mr. Aleva agreed and stated that the Applicant will come back for the daytime paid parking at a later date. He added that the new parking layout will be code compliant and that there are no additions to the seating of the restaurant.

Mr. Feldman confirmed that the traffic issue goes away.

Ms. Bevins suggested that it should not be up to the Code Enforcement Officer to mediate between the applicant and the abutter.

Mr. Feldman noted that the lights will only be above the top of the embankment by 7 feet and the shielding will eliminate a lot of the lighting concern.

Mr. Wilkos asked if the Board should require the applicant meet with the abutter as a condition of approval.

Mr. Simpson responded that he thinks that would be a waste of time. He pointed out that the applicant has already amended the application to satisfy the abutters' needs.

Ms. Freedman agreed.

Mr. Hayes agreed.

Mr. Wilkos confirmed that the majority of the Board members do not feel it would be productive for the applicant to meet with the abutter again. Personally he feels it is best when the applicant works with the abutter, but that will not be the case here.

Mr. Feldman summarized the Board's conditions of approval:

1. Move the light poles out of the buffer area;
2. Light poles shall be maximum of 20 feet in height from ground level;
3. Plan shall note the placement of western arborvitae 6 feet tall at the time of planting.

**Mr. Simpson Moved to Approve the Site Plan Application for David Giarusso – 661 Main Street (Map 13 Block 50) General Business District 2. Site Plan for accessory parking only for the restaurant, with the following three conditions:**

- 1. Move the light poles out of the buffer areas;**
- 2. The light poles shall be a maximum of 20 feet in height from the ground level;**
- 3. The plan shall note the arborvitae to be Western Arborvitae 6 feet tall at the time of planting.**

**SIMPSON/FREEDMAN 5:0 UNANIMOUS**

Mr. Giarusso asked for confirmation that he can now pave the parking lot.

Mr. Wilkos suggested he meet with the Code Enforcement Officer.

Mr. Giarusso returned to the auditorium and informed the Board that the abutter had just stated he was going to appeal the Board's decision. He asked if this is possible.

Mr. Heyland responded that anyone can appeal a Planning Board's Decision to the Superior Court within 30 days.

Mr. Giarusso asked if the Town would stop him from paving.

Mr. Wilkos stated he has approval.

- 3. BLUE WATER INN / LEONA M. LAPIERRE – 111 Beach Street – Map 7 Block 85 – Shoreland General 1 (SG1). Site Plan and Design Review Application to replace a pre-1931 inn/restaurant structure destroyed by fire on April 28, 2015. Replacement will consist of a restaurant, with no rental units or living space.**

Mr. Wilkos asked Mr. Heyland if he had any concerns.

Mr. Heyland responded that he had no concerns with the application.

Mr. Wilkos reminded everyone that the Board had asked for the total number of seats, and the applicant's response was 225.

Mr. Walsh stated that it may be a bit less than 225.

Mr. Heyland asked the Board to consider how trash will be handled.

Mr. Wilkos noted that this project involves a structure built prior to 1931 and that the Ogunquit Historic Preservation gave a very favorable review of the proposed design.

The Board reviewed the following standards for Design Review under Article 11.7.C of the Ogunquit Zoning Ordinance:

Scale of Building – Is the scale of the building visually compatible with the site and neighborhood as to the relationship of the open spaces around it and the size of doors/windows/porches/balconies?

The Board agreed that it is.

Height – Is the height of the building visually compatible with the heights of the buildings in the neighborhood?

The Board agreed that it is.

Proportion of Front Façade – Is the relationship of the width to the height of the front façade visually compatible with that of its neighbors?

The Board agreed that it is.

Relationship of Solids to Voids in Front Façade – Is the pattern of solids and voids in the front façade visually compatible with that of its neighbors?

The Board agreed that it is.

Proportions of Openings Within the Facility – Is the relationship of the height of windows and doors to their width visually compatible with the architectural style of the building and with that of its neighbors?

The Board agreed that it is.

Roof Shapes – Is the shape and proportion of the roof visually compatible with the architectural style of the building and with those of neighboring buildings?

The Board agreed that it is.

Relationship of Façade Materials – Are the facades of a building particularly the front façade, visually compatible with those of other buildings around it?

The Board agreed that they are.

Relationship of Spaces to Buildings on the Street – Has the rhythm of spaces to buildings been considered when determining visual compatibility, whether it is between buildings or between a building and the street?

The Board agreed that it has.

Site Features – Is the size, placement, and materials of walls, fences, signs, driveways, and parking areas visually compatible with the building and neighboring buildings?

The Board agreed that it is.

Architectural, Historical or Neighborhood Significance – Have the construction, reconstruction, maintenance, or moving of pre-1931 buildings been done in a manner which is visually compatible with the architectural, historical or neighborhood significance of buildings existing in 1930.

The Board agreed they have.

Mr. Wilkos congratulated the Applicant and the OHPC for working well together on this application.

**Mr. Simpson Moved to Approve the Design Review for the Blue Water Inn / Leona M. Lapierre – 111 Beach Street – Map 7 Block 85 – Shoreland General 1 (SG1). Design Review Application to replace a pre-1931 inn/restaurant structure destroyed by fire on April 28, 2015. Replacement will consist of a restaurant, with no rental units or living space. SIMPSON/BEVINS 5:0 UNANIMOUS**

Mr. Wilkos asked Mr. Walsh to explain the trash removal plans.

Bill Walsh responded that the trash will be stored in an enclosed area and removed on a daily basis.

Mr. Heyland expressed concern that egress routes might be compromised by the storage of trash. He suggested he and the applicant could meet to work out the details.

**Mr. Simpson Moved to Approve the Site Plan Review for Blue Water Inn / Leona M. Lapierre – 111 Beach Street – Map 7 Block 85 – Shoreland General 1 (SG1). Site Plan and Design Review Application to replace a pre-1931 inn/restaurant structure destroyed by fire on April 28, 2015. Replacement will consist of a restaurant, with no rental units or living space.**

**SIMPSON/FREEDMAN 5:0 UNANIMOUS**

**G. NEW BUSINESS –**

**1. MOORES SPARHAWK CORP./ SPARHAWK OCEANFRONT RESORT – 85 Shore Road – Map 6 Block 71 – Shoreland Limited Commercial (SLC). Design Review for a post 1931 structure. Application to enlarge existing guest unit to accommodate expansion of bedroom and bathroom in one unit.**

Harvey Wells addressed the Board as the Applicant's representative. Mr. Wells noted that the building in question has belonged to the Moores Family until 1989 when Mr. Moores converted the Jacobs building and garage into guest rooms. At that time a very small rental unit was created. The Applicant now seeks to expand that small unit bringing it up to the standards of the hotel's other units.

Mr. Wells reviewed the elevation drawings as well as the site plans. He noted that the sidings, windows and shutters will be matched with the existing materials already in place on the rest of the building.

Mr. Wilkos noted that the Board reviewed a memo from the Ogunquit Historic Preservation Commission which requested the Planning Board approve the plans as submitted.

Mr. Simpson asked if there are two additions: one in the back which is 6"x5" and one in the front which is 14" x5'7"?

Mr. Wells confirmed this to be the case.

Mr. Wilkos noted that all requested documentation had been submitted and no waivers were requested.

The Board reviewed the following standards for Design Review under Article 11.7.C of the Ogunquit Zoning Ordinance:

Scale of Building – Is the scale of the building visually compatible with the site and neighborhood as to the relationship of the open spaces around it and the size of doors/windows/

porches/balconies?

The Board agreed that it is.

Height – Is the height of the building visually compatible with the heights of the buildings in the neighborhood?

The Board agreed that it is.

Proportion of Front Façade – Is the relationship of the width to the height of the front façade visually compatible with that of its neighbors?

The Board agreed that it is.

Relationship of Solids to Voids in Front Façade – Is the pattern of solids and voids in the front façade visually compatible with that of its neighbors?

The Board agreed that it is.

Proportions of Openings Within the Facility – Is the relationship of the height of windows and doors to their width visually compatible with the architectural style of the building and with that of its neighbors?

The Board agreed that it is.

Roof Shapes – Is the shape and proportion of the roof visually compatible with the architectural style of the building and with those of neighboring buildings?

The Board agreed that it is.

Relationship of Façade Materials – Are the facades of a building particularly the front façade, visually compatible with those of other buildings around it?

The Board agreed that they are.

Relationship of Spaces to Buildings on the Street – Has the rhythm of spaces to buildings been considered when determining visual compatibility, whether it is between buildings or between a building and the street?

The Board agreed that it has.

Site Features – Is the size, placement, and materials of walls, fences, signs, driveways, and parking areas visually compatible with the building and neighboring buildings?

The Board agreed that it is.

Architectural, Historical or Neighborhood Significance – Have the construction, reconstruction, maintenance, or moving of pre-1931 buildings been done in a manner which is visually compatible with the architectural, historical or neighborhood significance of buildings existing in 1930.

The Board agreed they have.

**Mr. Simpson Moved to Approve Design Review for MOORES SPARHAWK CORP./ SPARHAWK OCEANFRONT RESORT – 85 Shore Road – Map 6 Block 71 – Shoreland Limited Commercial (SLC). Design Review for a post 1931 structure. Application to enlarge existing guest unit to accommodate expansion of bedroom and bathroom in one unit.**

**SIMPSON/FREEDMAN 5:0 UNANIMOUS**

**2. LAFAYETTE OGUNQUIT LLC/NORESEMAN HOTEL – 115 Beach Street – Map 7B Block 86 – Shoreland General Development 1 (SG1). Site Plan and Design Review for a post 1931 structure. Application to reconstruct building destroyed by fire.**

Geoffrey Aleva, Civil Consultants addressed the Board as the Applicant's representative. Mr. Aleva summarized that the application is to reconstruct a building which was destroyed by fire. The proposed plan is to reconstruct 8 hotel units, 4 on each floor, and do away with the restaurant use.

Mr. Aleva reviewed the plans submitted with the Planning Board Application packet. He noted that they will be utilizing a portion of the 30% volume and a portion of the footprint expansion allowed in the shoreland area.

The plan calls to relocate the structure back from the front property line bringing it into conformance. The structure is serviced by public water and sewer and will be protected by a sprinkler system.

Mr. Aleva proposed a raised structure with parking under the building. This will also allow the lower level units to be above the street level. The building will also contain an elevator which will service a third floor roof deck. There will also be a handicapped unit and a unit that will meet requirements of visual and hearing impaired patrons.

Mr. Aleva confirmed that he has met with the DEP regarding the Dune Permits. Materials will be similar in appearance to the existing building. Rails will be composite white balusters consistent with existing rails on the rest of the Norseman hotel.

Mr. Aleva stated that the existing building, which burned in April 2015 was originally constructed after a previous fire in 1937.

Ms. Bevins added that the building was completely remodeled in 1978. She suggested that the structure cannot be looked at as pre 1931.

Mr. Feldman suggested that the previous structure was destroyed and rebuilt in 1937, as such the Board should review the current application as a post 1931 structure.

Mr. Heyland referred to the underground parking. He questioned what effect parking will have in the buffer zone.

Mr. Aleva responded that they believe they can have one or two parking spaces under the building particularly a handicapped parking space to allow access to the elevator.

Mr. Wilkos asked if parking is not allowed under the building.

Mr. Heyland responded that the proposal includes a parking area, Shoreland Zoning prevents parking in the buffer. The proposed structure is 80% to 90% within the buffer, thus parking below it would be in the shoreland buffer and would be in violation.

Mr. Aleva noted that there is space for two parking spaces, under the structure, and outside the buffer.

Mr. Heyland agreed. He also agreed that the elevator base and building are also exempt from the shoreland buffer.

Ms. Freedman asked how many units will be handicapped accessible.

Mr. Aleva responded that there will be one mobility handicapped unit and one unit for visual and hearing impaired patrons. He also noted that they are required to have one handicapped parking space that is wheelchair accessible. He agreed to revise the plan to reconfigure the under building parking.

Mr. Aleva described a solid wall at the street level so that pedestrians walking in front of the building will not be able to see into the garage. The purpose is to provide a security buffer between the sidewalk and the cars parking under the building. Cars will enter the under building parking area via Norseman Lane. The access driveway off Norseman Lane might also accommodate two parking spaces if needed.

Mr. Wilkos asked for the material at the front of the building.

Mr. Aleva responded that it will be brick façade.

Mr. Aromando asked if the two handicapped units are required by the ADA, and who enforces that.

Mr. Aleva responded that they are required and enforcement is through the State Fire Marshall.

Mr. Aromando asked for confirmation that the Applicant intends to put as many parking spaces under the building as allowable.

Mr. Aleva confirmed this.

Mr. Simpson asked if the height of the building includes the elevator shaft.

Mr. Aleva responded that it does not. The top of the building is almost at 35'. The elevator shaft is exempt from the height restriction because it is a non-habitable space. They worked with Stanley Elevator to get the shortest shaft possible. Mr. Aleva also stated that the design is such that it will be hardly visible by someone coming down Beach Street.

Mr. Wilkos asked how tall the shaft will be.

Mr. Aleva responded that it is approximately 12' above the top of the building. He noted that there will be a rooftop deck in the area of the elevator shaft as well.

Ms. Freedman asked if the Zoning Ordinance limits a structure to 2 ½ stories.

Mr. Heyland responded that a story is from the floor to the ceiling above. The deck is not considered to be a story. He considers the proposed structure to be a 2 story building. He also noted that the height restriction is still 35'.

Ms. Freedman asked about the three windows in the mansard.

Mr. Aleva responded that they are cosmetic only.

Mr. Hayes asked about the height of the elevator shaft.

Mr. Aleva responded that the total height is about 44 feet.

Ms. Freedman asked why the building isn't considered to be a 3 story building.

Mr. Heyland responded that the underside of an elevated structure is not considered to be a story. There is no "floor", thus the "first floor" is the floor of the first living space. He suggested that if the parking isn't allowed the building might be lowered somewhat. He noted that the entrance to the "parking area" would accommodate 3 to 4 vehicles and perhaps that might provide the desired parking.

Mr. Heyland added that elevated structures are very common particularly in the flood plain.

Mr. Aleva agreed and added that one of their goals was to have the hotel units up off the sidewalk.

**Mr. Simpson Moved to Find the Design Review Submission Checklist Complete for LAFAYETTE OGUNQUIT LLC/NORESEMAN HOTEL – 115 Beach Street – Map 7B Block 86 – Shoreland General Development 1 (SG1). Site Plan and Design Review for a post 1931 structure. Application to reconstruct building destroyed by fire.**

**SIMPSON/BEVINS 5:0 UNANIMOUS**

The Board reviewed the Site Plan Submission Waiver Requests.

**Mr. Simpson Moved Grant a Waiver for Item 6.6.C.3.J, it is required that applicants submit a High Intensity Soil Survey for undeveloped vacant sites w/o water and sewer.**

**REASON: A Waiver for this requirement is requested due to the fact that the site is currently developed and municipal water and sewer services exist on the site. The existing connection to services will be reestablished with the new construction**

**AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not effect or nullify the intent and purpose of the Zoning Ordinance.**

Mr. Wilkos called for discussion. There was none.

**SIMPSON/FREEDMAN 5:0 UNANIMOUS**

**Mr. Simpson Moved Grant a Waiver for Item 6.6.C.3.M, A copy of any proposed deed restrictions intended to cover all or part of subject property**

**REASON: There are no known deed restrictions per the deed.**

**AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity, provided that such a waiver will not effect or nullify the intent and purpose of the Zoning Ordinance.**

Mr. Wilkos called for discussion. There was none.

**SIMPSON/BEVINS 5:0 UNANIMOUS**

**Mr. Simpson Moved Grant a Waiver for Items 6.6.C.3.N.ii, Outside Sewer Service Area - Septic System Design.**

**REASON: The project proposed to utilize the existing municipal sewer connection with upgrades. A septic system design is not required**

**AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity, provided that such a waiver will not effect or nullify the intent and purpose of the Zoning Ordinance.**

Mr. Wilkos called for discussion. There was none

**SIMPSON/BEVINS 5:0 UNANIMOUS**

**Mr. Simpson Moved Grant a Waiver for Item 6.6.C.3.0.iii, Outside Water Service Area — Evidence of adequate supply from well driller or hydro geologist**

**REASON: The lot is serviced by municipal water, the owner will work with KKW to detail the connection.**

**AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity, provided that such a waiver will not effect or nullify the intent and purpose of the Zoning Ordinance.**

Mr. Wilkos called for discussion. There was none

**SIMPSON/BEVINS 5:0 UNANIMOUS**

**Mr. Simpson Moved Grant a Waiver for Item 6.6.C.3.Q, Width and location of any street, public improvements or open space shown upon the official map and in the comprehensive plan, if any, within the site.**

**REASON: The property is currently developed. There are no public improvements or open spaces that exist on this property.**

**AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity, provided that such a waiver will not effect or nullify the intent and purpose of the Zoning Ordinance.**

Mr. Wilkos called for discussion. There was none

**SIMPSON/BEVINS 5:0 UNANIMOUS**

**Mr. Simpson Moved Grant a Waiver for Item 6.6.C.3.R, Location of any open space to be preserved and a description of proposed ownership, improvement and management.**

**REASON: The property is currently developed. There are no open spaces.**

**AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity, provided that such a waiver will not effect or nullify the intent and purpose of the Zoning Ordinance.**

Mr. Wilkos called for discussion. There was none.

**SIMPSON/BEVINS 5:0 UNANIMOUS**

**Mr. Simpson Moved Grant a Waiver for Item 6.6.C.3.S, it is required that applicants submit hydrogeologic evaluation and septic designs.**

**REASON: Waivers for these requirements are requested due to the fact that the property is serviced by municipal water and sewer. The existing municipal sewer will be used for this project.**

**AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity, provided that such a waiver will not effect or nullify the intent and purpose of the Zoning Ordinance.**

Mr. Wilkos called for discussion. There was none.

**SIMPSON/FREEDMAN 5:0 UNANIMOUS**

**Mr. Simpson Moved Grant a Waiver for Item 6.6.C.3.T -An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours.**

**REASON: This project is the reconstruction of the existing hotel. The restaurant will not be reconstructed. The traffic generated by the restaurant will be removed, thus reducing the amount of traffic. The proposed project is to create six (6) additional parking opportunities for the hotel. The original building relied on parking at the adjacent property. The remaining rooms will use existing parking on Norseman property. The proposed traffic after construction will be less than the pre fire condition.**

**AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity, provided that such a waiver will not effect or nullify the intent and purpose of the Zoning Ordinance.**

Mr. Wilkos called for discussion. There was none.

**SIMPSON/BEVINS 5:0 UNANIMOUS**

**Mr. Simpson Moved Grant a Waiver for Item 6.6.C.3.U - A traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering (for project requiring 10 or more parking spaces, or projected 50+ trips per day.**

**REASON: The proposed project does not increase parking demands for the property. The project reduces the parking demand for the property by the removal of the restaurant. The project does not create 50 additional trips or require additional parking stalls.**

**AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity, provided that such a waiver will not effect or nullify the intent and purpose of the Zoning Ordinance.**

Mr. Wilkos called for discussion. There was none.

**SIMPSON/HAYES 5:0 UNANIMOUS**

**Mr. Simpson Moved Grant a Waiver for Item 6.6.C.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.**

**REASON: This property is not identified in the comprehensive plan, and is not known to be listed on the National Register. This fire destroyed property had an age (1939/1950) that does not require consideration by the Ogunquit Historic Preservation Commission. The proposed new structure fits with the beach community in the area and adjacent hotels.**

**AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity, provided that such a waiver will not effect or nullify the intent and purpose of the Zoning Ordinance.**

Mr. Wilkos called for discussion. There was none.

**SIMPSON/HAYES 5:0 UNANIMOUS**

**Mr. Simpson Moved Grant a Waiver for Item 6.6. C. 3. Y - Stormwater Management Plan**

**REASON: This project is the reconstruction of the existing building with no increase in lot coverage. Stormwater discharge will be similar to the preexisting condition. The property will continue to discharge stormwater to the Ogunquit River. As part of the MDEP Sand Dune process, stogy stormwater control is considered during the approval process.**

**AND: Strict compliance with the required application submission would unduly burden the applicant, provided that such a waiver will not effect or nullify the intent and purpose of the Zoning Ordinance.**

Mr. Wilkos called for discussion. There was none.

**SIMPSON/HAYES 5:0 UNANIMOUS**

**Mr. Simpson Moved Grant a Waiver for Item 6.6.C.3.AA - Location of any streets, public improvements or open space shown in the comprehensive planed or capital improvements plan, within the site.**

**REASON: This an existing developed site, no streets, public improvements or open space are proposed or within the property.**

**AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity, provided that such a waiver will not effect or nullify the intent and purpose of the Zoning Ordinance.**

Mr. Wilkos called for discussion. There was none.

**SIMPSON/HAYES 5:0 UNANIMOUS**

**Mr. Simpson Moved Grant a Waiver for Item 6.6.C.3.BB - Parcels of land proposed to be dedicate to public use and the conditions of such dedication**

**REASON: There are no areas proposed to be dedicated for public use on this property.**

**AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity, provided that such a waiver will not effect or nullify the intent and purpose of the Zoning Ordinance.**

Mr. Wilkos called for discussion. There was none.

**SIMPSON/HAYES 5:0 UNANIMOUS**

**Mr. Simpson Moved Grant a Waiver for Item 6.6.C.3.CC - Location/ Method of Land Clearing and Construction Debris Removal**

**REASON: The property is currently developed; the majority of the demolition debris has been removed via dumpsters during the cleanup work after the fire.**

**AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity, provided that such a waiver will not effect or nullify the intent and purpose of the Zoning Ordinance.**

Mr. Wilkos called for discussion. There was none.

**SIMPSON/HAYES 5:0 UNANIMOUS**

**Mr. Simpson Moved Grant a Waiver for Item 6.6.C.3.DD - it is required that applicants submit a cost estimate for setting performance guarantees pursuant to section 4.8.**

**REASON: Completion of the work will be necessary to conduct business at the establishments, and any delay or failure to complete the work will only have adverse effects on the business owner. It is imperative to have the site clean, safe and completed so as not to further impact current business.**

**AND: Strict compliance with the required application submission would unduly burden the applicant, provided that such a waiver will not effect or nullify the intent and purpose of the Zoning Ordinance.**

Mr. Wilkos called for discussion. There was none.

**SIMPSON/HAYES 5:0 UNANIMOUS**

**Mr. Simpson Moved Grant a Waiver for Item 6.6C.3.EE - State and Federal Permits**

**REASON: We are requesting this waiver since these permits are not complete at the time of the planning board submission. We have started the application process for MDEP Sand Dune permit for this project. This permit when granted will be copied to the Town Code Enforcement Officer. We are working on the State Fire Marshal construction permit. A copy of this permit will be supplied to the Town Code Enforcement Officer.**

**AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity, provided that such a waiver will not effect or nullify the intent and purpose of the Zoning Ordinance.**

**AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity, provided that such a waiver will not effect or nullify the intent and purpose of the Zoning Ordinance.**

Mr. Wilkos called for discussion. There was none.

**SIMPSON/HAYES 5:0 UNANIMOUS**

**Mr. Simpson Moved to find the Site Plan Application Complete for LAFAYETTE OGUNQUIT LLC/NORESEMAN HOTEL – 115 Beach Street – Map 7B Block 86 – Shoreland General Development 1 (SG1). Site Plan and Design Review for a post 1931 structure. Application to reconstruct building destroyed by fire.**

**SIMPSON/ BEVINS 5:0 UNANIMOUS**

Mr. Heyland suggested the Board might consider adding Design Review as part of the Public Hearing. He noted that it would not delay the application process.

Mr. Wilkos informed Mr. Aleva that a Public Hearing would take place on November 23, 2015 at 6:00 p.m. He added that the Public Hearing would include Design Review as well.

#### **H. CODE ENFORCEMENT OFFICER BUSINESS –**

Mr. Heyland stated that the sign removed from Mr. Kunz's property was in the right-of-way and he removed it. He also contacted the rental agency and informed them of the removal and why. He disagreed that he was condescending in any way. He agreed that there may be other signs in violation and he picks them up whenever possible. The appropriate response to any action by the Code Enforcement Officer is to appeal to the Zoning Board of Appeals.

Ms. Bevins stated that there are many illegal signs and it may be beyond the scope of the Code Enforcement Officer's ability to control all of them all the time.

Mr. Heyland agreed. He also noted that the Code Enforcement Office handles Planning Board material, Zoning Board application, Plumbing, Electrical, and Building permits as well as health office issues and many other planning and permitting activities.

#### **I. OTHER BUSINESS –**

##### **1. Ogunquit Playhouse Foundation: Request for Extension.**

The Board agreed that no extension is required. The deadline for completion of the project is August 11, 2016.

Mr. Wilkos asked the applicant to amend the request from two years to one year extension.

**2. Comprehensive Plan**

Mr. Wilkos noted that he has met with the Select Board Chair to begin the process of review of the Comprehensive Plan.

**3. Set Planning Board Meeting Schedule for 2016.**

The Board agreed to set the 2016 Meeting schedule from January to July 2016 when a new Board may be in place.

The following schedule was set:

January 11  
January 25

February 8  
February 22

March 14  
March 28

*April 11 = Patriot's Day – Town Offices are Closed*  
Tuesday April 12 will be the 1<sup>st</sup> meeting in April  
April 25

May 9  
May 23

*June 14 = Town Meeting*  
Monday June 6 will be the 1<sup>st</sup> meeting in June  
June 27

**J. ADJOURNMENT -**

**Mr. Simpson Moved to Adjourn at 8:55 p.m.**  
**SIMPSON/HAYES 5:0 UNANIMOUS**

Respectfully Submitted

*Maryann L. Stacy*

Maryann Stacy

Town of Ogunquit

Planning Board Recording Secretary

*Approved on November 23, 2015*