



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 OCTOBER 26, 2015

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

Members Excused: Rick Dolliver (1st Alternate)
 Brian Aromando (2nd 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 13, 2015

Ms. Freedman Moved to Accept the Minutes for the October 13, 2015 Meeting as Submitted.

FREEDMAN/HAYES 3:0 UNANIMOUS (Ms. Bevins was excused from the October 13, 2015 Meeting – Mr. Simpson was recused from the Shore Road Commons Subdivision Application)

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

Mr. Wilkos asked if there was anyone who wished to be heard on any matter not on this meeting's agenda.

There was no one.

F. UNFINISHED BUSINESS –

1. FINDINGS OF FACT FOR:

AMI-O, LLC / ANCHORAGE BY THE SEA – 134 Shore Road, Building #2 – Map 6 Block 125-A – Limited Business District (LBD). Site Plan Review Application for a post December 31, 1930 structure. Application to demolish a four unit hotel building and replace it with a new swimming pool, gazebo pavilion, and ADA Compliant restroom.

Ms. Bevins Moved to Accept the Findings of Fact for AMI-O, LLC / Anchorage by the Sea as Submitted.

BEVINS/SIMPSON 5:0 UNANIMOUS

2. 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.

Ms. Freedman Moved to reconsider the Shore Road Commons Subdivision Final Plan Application for the limited purpose of reviewing the Final Plan Submission Waiver Requests, Finding the Final Plan Application Complete, and Reaffirming Final Plan Approval.

Mr. Simpson recused himself and left the auditorium.

Ms. Freedman repeated her **Motion to reconsider the Shore Road Commons Subdivision Final Plan Application for the limited purpose of reviewing the Final Plan Submission Waiver Requests, Finding the Final Plan Application Complete, and Reaffirming Final Plan Approval.**

Mr. Wilkos called for discussion. There was none.

FREEDMAN/HAYES 4:0 UNANIMOUS (Mr. Simpson recused)

Ms. Freedman Moved to Grant a Waiver Request under Section 6.6.4 for Article 7.1.2 — Request for Extension — The Final Plan submission has been made within 6 months of the Preliminary Plan approval therefore an extension is not required. This item does not apply to the project.

Thus strict compliance with the required application submission would be excessive in light of the nature of the proposed structure or 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.

FREEDMAN/BEVINS 4:0 UNANIMOUS (Mr. Simpson recused)

Ms. Freedman Moved to Grant a Waiver Request under Section 6.6.4 for Article 7.1.4.1 — DEP Site Location —The project does not create 15 lots and include 30 acres and does not create 3 acres of impervious area.

DEP Site Law does not apply to this project.

Thus strict compliance with the required application submission would be excessive in light of the nature of the proposed structure or 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.

FREEDMAN/BEVINS 4:0 UNANIMOUS (Mr. Simpson recused)

Ms. Freedman Moved to Grant a Waiver Request under Section 6.6.4 for Article 7.1.4.2 — DEP NRPA, Stormwater or Wastewater Discharge — The site does not impact over 4,300 s.f. of freshwater wetlands, does not create an acre of impervious area and is not serviced by an engineered subsurface wastewater disposal system.

This item does not apply to the project.

Thus strict compliance with the required application submission would be excessive in light of the nature of the proposed structure or 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.

FREEDMAN/BEVINS 4:0 UNANIMOUS (Mr. Simpson recused)

Ms. Freedman Moved to Grant a Waiver Request under Section 6.6.4 for Article 7.1.4.3 — DHS Public Water System — The site is serviced by public water.

This item does not apply to the project.

Thus strict compliance with the required application submission would be excessive in light of the nature of the proposed structure or 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.

FREEDMAN/BEVINS 4:0 UNANIMOUS (Mr. Simpson recused)

Ms. Freedman Moved to Grant a Waiver Request under Section 6.6.4 for Article 7.1.4.4 — DHS Engineered Subsurface Wastewater Discharge — As noted in item 7.1.4.2, this item does not apply. Refer to 7.1.4.2 for the basis of this request.

Thus strict compliance with the required application submission would be excessive in light of the nature of the proposed structure or 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.

FREEDMAN/BEVINS 4:0 UNANIMOUS (Mr. Simpson recused)

Ms. Freedman Moved to Grant a Waiver Request under Section 6.6.4 for Article 7.1.2.5 — U.S. Army Corps of Engineers, (Corps) Section 404 Permit — The project does not propose to disturb any freshwater wetlands. Under Section 404 of the Clean Water Act and the Corps New England General Permit the project does not qualify for a permit from the Corps of Engineers.

Thus strict compliance with the required application submission would be excessive in light of the nature of the proposed structure or 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.

FREEDMAN/BEVINS 4:0 UNANIMOUS (Mr. Simpson recused)

Ms. Freedman Moved to Grant a Waiver Request under Section 6.6.4 for Article 7.1.4.6 —DOT Traffic Movement Permit or Entrance Permit — The project does not generate 100 peak hour vehicle trips per day and is not located on a State Highway. Accordingly, no permits are required from the MDOT.

This item does not apply to the project.

Thus strict compliance with the required application submission would be excessive in light of the nature of the proposed structure or 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.

FREEDMAN/BEVINS 4:0 UNANIMOUS (Mr. Simpson recused)

Ms. Freedman Moved to Grant a Waiver Request under Section 6.6.4 for Article 7.1.12 — Performance Guarantee — The project proposes no public improvements. As required by this article the applicant shall contact the Town Manager to review any potential surety required for the project improvements. This request cannot be made until the Final Plan Submission with final plans for the Town Manager to review. Therefore a waiver of this submission requirement is requested to allow the Town Manger to determine prior to the Planning Board meeting of September 28th; if any such surety is required, and if so, the amount and form of surety.

Thus strict compliance with the required application submission would be excessive in light of the nature of the proposed structure or 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.

FREEDMAN/HAYES 4:0 UNANIMOUS (Mr. Simpson recused)

Ms. Freedman Moved to Grant a Waiver Request under Section 6.6.4 for Article 7.3.2.5.1 — Written Statement from the Fire Chief —This item requires the written approval from the Fire Chief prior to the submission of the Final Plan. However, the Chief must review the final plan after the formal final plan submission when received by staff. We request a waiver to allow the Chief to provide a written approval after the Final Plan submission and prior to the Planning Board meeting of September 28th as is accomplished with any other staff comments.

Thus strict compliance with the required application submission would be excessive in light of the nature of the proposed structure or 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.

FREEDMAN/HAYES 4:0 UNANIMOUS (Mr. Simpson recused)

Ms. Freedman Moved to Grant a Waiver Request under Section 6.6.4 for Article 7.3.2.5.2 — Private Water Wells —The project is serviced by public water. This item requiring evidence of adequate ground water supplies does not apply to the project.

Thus strict compliance with the required application submission would be excessive in light of the nature of the proposed structure or 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.

FREEDMAN/HAYES 4:0 UNANIMOUS (Mr. Simpson recused)

Ms. Freedman Moved to Grant a Waiver Request under Section 6.6.4 for Article 7.3.12 — Street Plans — No Streets as defined in the Ogunquit Subdivision Ordinance are proposed. All improvements are either driveways or existing ways (Hartwig Lane). This item does not apply to the project.

Article 7.3.15 — Streets or Public Improvements Shown on the Comprehensive Plan — No proposed streets or public improvements at the site are shown on the Comprehensive Plan or official map.

This item does not apply to the project.

Thus strict compliance with the required application submission would be excessive in light of the nature of the proposed structure or 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.

FREEDMAN/BEVINS 4:0 UNANIMOUS (Mr. Simpson recused)

Ms. Freedman Moved to Grant a Waiver Request under Section 6.6.4 for Article 7.3.16 — Public Dedication of Parcels —The project does not propose to dedicate any parcels to the Public or Town of Ogunquit.

This item does not apply to the project.

Thus strict compliance with the required application submission would be excessive in light of the nature of the proposed structure or 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.

FREEDMAN/HAYES 4:0 UNANIMOUS (Mr. Simpson recused)

Ms. Freedman Moved to find the Final Subdivision Application for Shore Road Commons – Phase II / John Mixon Complete.

Mr. Wilkos called for discussion. There was none.

FREEDMAN/BEVINS 4:0 UNANIMOUS (Mr. Simpson recused)

Ms. Freedman Moved to Reaffirm Final Subdivision Application for Shore Road Commons – Phase II / John Mixon Approval.

Mr. Wilkos called for discussion. There was none.

FREEDMAN/HAYES 4:0 UNANIMOUS (Mr. Simpson recused)

Mr. Simpson resumed his seat as a full voting Board member.

- 3. CHERRY LANE PROPERTIES, LLC – 67 Cherry Lane – Map 4 Block 84 – One Family Residential District (OFR). Subdivision Sketch Plan Application for three lot subdivision including an existing pre 1931 structure.**

Mr. Wilkos noted that the Board held a Site Visit earlier in the day.

Attorney Durward Parkinson addressed the Board as the Applicant's representative. Attorney Parkinson noted that this application involves a three lot subdivision with no need for State Approval, or DEP Approval, and that there are no wetlands involved, and no required DOT permits. Attorney Parkinson requested the Board combine the Preliminary Plan, Public Hearing, and the Final Plan into one review action.

Mr. Wilkos asked if the Board had any questions or comments from the Site Visit.

Mr. Feldman noted that while the proposed three lots do meet all Zoning requirements, they are small. Mr. Feldman asked if the Applicant could add a typical house footprint on the final plans. He agreed that the applicant will not be held to that specific drawing for development purposes, however it would help the Board gain a better idea of how much of the lot will be taken up by a house. Mr. Feldman noted that 2/3 of a 12,000 square foot lot comprises the buildable envelope.

Mr. Plante agreed to add sample house footprints on the plans, he also noted that the maximum buildable coverage is 30% which limits them.

Mr. Feldman suggested the applicant add a building footprint that maximizes the 30% for demonstration purposes only.

Mr. Feldman also referred to the curb openings on Frazier Pasture Road. He asked if the Applicant would consider a shared one curb opening for those two lots.

Attorney Parkinson responded that the Applicant feels strongly that they do not want to do this. They want each property to have its own driveway.

Mr. Wilkos confirmed that the Applicant has agreed to provide additional photographs of the property at the Preliminary Plan Stage.

Mr. Wilkos asked Mr. Feldman for his recommendation regarding the Applicant's request to combine the Preliminary and Final reviews.

Mr. Feldman responded that the Ordinance does not address this request. However if the Board chooses to do so they will still need to hold a Public Hearing; and they should hold two votes: Preliminary Approval and Final Approval. Mr. Feldman confirmed that the Ordinance only requires the Board hold a public hearing, it does not require the Board hold public hearings at both the Preliminary and Final Plan stages of review.

Mr. Wilkos stated that he cannot remember the Board ever deviating from the standard protocol of three separate application reviews: Sketch, Preliminary, and Final and he is reluctant to do so now.

Mr. Simpson added that past subdivision plans have always been more complicated, this application is very simple and straight forward and he would not have a problem combining Preliminary Plan and Final Plan Reviews.

Mr. Hayes agreed with Mr. Simpson.

Ms. Bevins Agreed with Mr. Simpson.

Mr. Feldman informed the Board that if they agree to combine the Preliminary and Final reviews they will have set a precedent and future subdivision applicants may request the same thing.

Ms. Freedman expressed concern that if there is a problem with the Preliminary Plan or at the Public Hearing the Board would have to pull the Final Plan and separate the two review stages.

Ms. Freedman asked for a vote on whether or not to separate the Preliminary and Final Plan Reviews.

Mr. Simpson pointed out that without a motion to change the procedure the standard protocol will be used for review of this application.

There was no motion made.

Mr. Simpson Moved to Accept the Sketch Plan for CHERRY LANE PROPERTIES, LLC – 67 Cherry Lane – Map 4 Block 84 – One Family Residential District (OFR). Subdivision Sketch Plan Application for three lot subdivision including an existing pre 1931 structure. SIMPSON/HAYES 5:0 UNANIMOUS

A Public Hearing was scheduled to take place on November 9, 2015 at 6:00 p.m.
(this Public Hearing was later cancelled to be rescheduled during the Preliminary Plan Application Review)

G. NEW BUSINESS –

- 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 addressed the Board as the Applicant's representative. Mr. Walsh confirmed that the Blue Water Inn burned in April 2015. It sat upon a parcel that contains .26 acres of land in the submerged lands. Before the fire the Blue Water Inn consisted of a restaurant on the first floor and seven hotel rooms above. There was a beach bar on an open deck space. Mr. Walsh confirmed that due to the age of the structure it was not in compliance with any of the setbacks which exist today.

Mr. Walsh confirmed that there are 10' front setbacks and 15' side and rear setbacks, and a 75' Shoreland setback, and 35' maximum height requirement. He noted that the original structure intruded over the front line lot and out onto the sidewalk. The applicant's attorney is of the opinion that this constitutes adverse possession.

Mr. Walsh confirmed that the property is within the Flood Zone at elevation 8.5, however the original building's finished floor elevation was at elevation 10.87 making it over the required flood elevation.

Mr. Walsh summarized that the Applicants are seeking to replace the former non-conforming structure with a new restaurant. They do not intend to include any hotel use. He confirmed that the new structure will be very similar to the original. The new structure will be at a finished floor elevation 10.9. It will be 2.4 feet above the Base Flood Elevation (BDE) OF 8.5. The proposal is to expand the structure as allowed in Article 3.3.E which states that *"A permit for such reconstruction must be obtained and actual reconstruction must be commenced within 12 months and completed within 24 months of the damage or destruction."*

Mr. Walsh also noted Article 3.3.A which states that : *"...provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board."* and *"...If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 3.3.H.1..."*

It is the Applicant's position that the new construction will only be a 21% increase.

The proposed new structure will be 57'6" x 46'6" which is the largest rectangle which can fit on the platform. It will be no closer to Beach Street, or the side property line adjacent to the former Huckleberry's Restaurant, the Ogunquit River, or the North property line.

Mr. Walsh informed the Board that he has discussed the project with the Maine DEP. It qualifies as a NRPA Permit by Rule which they will obtain as soon as the Board approves the application.

He has also discussed the project with the Army Corps of Engineers. It will be a Category 1 project and they will file for that as soon as they define the foundation and determine what the impact will be.

The Applicant will also obtain a State Fire Marshall Permit.

Harvey Wells, the project architect addressed the Board and summarized the proposed structure's design. Mr. Wells noted that the first floor will contain the kitchen, two ADA compliant bathrooms, a small bar area, a coat room, and a dining room with glass walls along the river side of the building. The second floor will contain a dining area, an outside open deck with a covered awning for dining, another small cocktail bar, a storage area with a dumbwaiter to the kitchen. and an ADA unisex bathroom.

Mr. Wells informed the Board that he met with Dick Nason from the State Fire Marshall's Office. They went through the plans and they comply with the Life Safety NFPA 101 Life Safety Code and the 2009 IBC Code which requires two egresses. The first is the main entrance and the second along a first floor corridor which empties out on to the street. There will also be two means of egress from the second floor.

The exterior of the building will be similar in appearance to the original structure with the exception that there will be increased glass windows on the river side, and the moving of the deck from the first floor to the second floor. From Beach Street the building will be very similar to the original.

Mr. Wells stated that once constructed it will be a state of the art structure. It will have new support pilings underneath, new structural support for support above the first floor which will be designed to withstand 100 mph winds, 50 pound per square foot snow-loads, and 100 pound per square foot floor framing. There will be a fully automated sprinkler system and a two-hour masonry wall to protect the abutting Norseman building. It will meet all ADA Handicap requirements. Mr. Wells confirmed that all required permits are in the process of being obtained.

Mr. Wilkos reviewed a memo from the Code Enforcement Officer dated October 19, 2015 (*a copy of which will be maintained in the Applicant's Planning Board file*).

Mr. Wilkos reviewed a memo to the Board from the Ogunquit Fire Chief dated October 13, 2015 (*a copy of which will be maintained in the Applicant's Planning Board file*).

Mr. Wilkos reviewed a memo to the Board from the Ogunquit Conservation Commission dated October 16, 2015 (*a copy of which will be maintained in the Applicant's Planning Board file*).

Mr. Wilkos reviewed a letter to the Board from the Ogunquit Historic Preservation Commission dated October 14, 2015 (*a copy of which will be maintained in the Applicant's Planning Board file*).

Ms. Freedman noted that the Sewer District Letter states that the system will be able to support a 150 seat restaurant, however the Code Enforcement Officer's memo indicates a 225 seat restaurant.

Mr. Walsh responded that the Fire Marshall's Office asked for a seating layout. Mr. Wells took the total area available for dining and used the standard of 15 square feet per person. This is how he arrived at a figure of how many seats could be put in. However until the actual table layout is produced and he is able to analyze the aisle widths and travel distances to the egress points the number may vary. It will probably come down a bit because of the requirement to gain aisle width to the egress points.

Mr. Wilkos asked if the applicant will obtain another letter from the Sewer District with a corrected number of seats.

Mr. Wells agreed.

Ms. Freedman asked about the two handicapped bathrooms on the first floor, she asked if they will be multiples.

Mr. Wells responded that there are two fixtures on the first floor which cover approximately 300 individuals. There is also the bathroom on the second floor.

Mr. Heyland agreed that the bathroom sufficiency will be worked out when they have the seating layout and exact seat counts.

Ms. Freedman noted the ADA Bathroom on the second floor and asked how handicapped individuals will access the second floor.

Mr. Wells responded that ADA requirements state that if the same level of service is offered on the 2nd floor as the 1st floor, the applicant is not required to provide access to the 2nd floor.

Mr. Heyland confirmed this.

At this time the Board reviewed the submission waiver requests with the following results:

Mr. Simpson Moved to Grant a Waiver Request under Section 6.6.4 for Article 6.6.C.3.J - Submission of a High Intensity Soil Survey prepared by a Certified Soil Scientist. We are requesting a waiver of this submission requirement as the site is only about 0.26 acres, located primarily over submerged tidal land and will be connected to public utilities.

Thus strict compliance with the required application submission would be excessive in light of the nature of the proposed structure or 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 to Grant a Waiver Request under Section 6.6.4 for Article 6.6.C.3.M - Submission of a copy of any proposed deed restrictions. We are requesting a waiver of this submission requirement because there are no deed restrictions proposed.

Thus strict compliance with the required application submission would be excessive in light of the nature of the proposed structure or 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 to Grant a Waiver Request under Section 6.6.4 for Article 6.6.C.3.N.ii - Submission of a septic system design prepared by a Licensed Site Evaluator or Professional Engineer. We are requesting a waiver of this submission requirement because this project will be connected to the public sewer system.

Thus strict compliance with the required application submission would be excessive in light of the nature of the proposed structure or 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 to Grant a Waiver Request under Section 6.6.4 for Article 6.6.C.3.O.iii - Submission of evidence of adequate water supply from a well driller or hydrogeologist. We are requesting a waiver of this submission requirement because this project will be connected to the public water supply.

Thus strict compliance with the required application submission would be excessive in light of the nature of the proposed structure or 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 to Grant a Waiver Request under Section 6.6.4 for Article 6.6.C.3.Q - Submission of any streets or public improvements within the site. We are requesting a waiver of this submission requirement because there are no proposed public improvements.

Thus strict compliance with the required application submission would be excessive in light of the nature of the proposed structure or 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 to Grant a Waiver Request under Section 6.6.4 for Article 6.6.C.3.R - Submission of any open space to be preserved. We are requesting a waiver of this submission requirement because this project does not include any open space.

Thus strict compliance with the required application submission would be excessive in light of the nature of the proposed structure or 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 to Grant a Waiver Request under Section 6.6.4 for Article 6.6.C.3.S - Submission of a hydrogeologic assessment by a Certified Geologist or Professional Engineer. We are requesting a waiver of this submission requirement because the project will be connected to public water and sewer services.

Thus strict compliance with the required application submission would be excessive in light of the nature of the proposed structure or 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 to Grant a Waiver Request under Section 6.6.4 for Article 6.6.C.3.W - Submission of a Historic Areas within or adjacent to the proposed site. We are requesting a waiver of this submission requirement because of timing of the Ogunquit Historic Preservation Commission meeting is such that we could not get a review of the building prior to the Planning Board submission deadline. We are scheduled to appear before the Commission on October 14, 2015.

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

SIMPSON/HAYES

Mr. Wilkos called for discussion.

Ms. Freedman noted that the Applicant checked the box indicating submitted by Applicant on the Submissions Checklist.

Mr. Heyland responded that the Applicant submitted the OHPC Memo after the application.

Mr. Simpson withdrew his Motion because the submission from the Ogunquit Historic Preservation Commission was submitted and no waiver is required.

Mr. Simpson to Grant a Waiver Request under Section 6.6.4 for Article 6.6.C.3.X - Submission of parking, driveway and street plans. We are requesting a waiver of this submission requirement because there are no parking areas, driveways or roads proposed as part of this project. The site is located across the street from the Ogunquit Beach Parking lot.

Thus strict compliance with the required application submission would be excessive in light of the nature of the proposed structure or 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 Grant a Waiver Request under Section 6.6.4 for Article 6.6.C.3.Y - Submission of a stormwater management plan. We are requesting a waiver of this submission requirement because the replacement structure will be slightly smaller in footprint than the destroyed building so it will not generate any more stormwater runoff than before.

Thus strict compliance with the required application submission would be excessive in light of the nature of the proposed structure or 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 Grant a Waiver Request under Section 6.6.4 for

Article 6.6.C.3.AA - Submission of the location of any streets, public improvements or open space. We are requesting a waiver of this submission requirement because there are no streets or other public improvements proposed as part of this project.

Thus strict compliance with the required application submission would be excessive in light of the nature of the proposed structure or 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 Grant a Waiver Request under Section 6.6.4 for Article 6.6.C.3.BB - Submission of the location of parcels of land to be dedicated for public use. We are requesting a waiver of this submission requirement because no lands to be dedicated for public use are proposed as part of this project.

Thus strict compliance with the required application submission would be excessive in light of the nature of the proposed structure or 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 Grant a Waiver Request under Section 6.6.4 for Article 6.6.C.3.CC - Submission of location of land clearing and construction debris removal. The remainder of the building and construction debris will be removed and disposed of offsite in a licensed landfill.

Thus strict compliance with the required application submission would be excessive in light of the nature of the proposed structure or 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 Grant a Waiver Request under Section 6.6.4 for Article 6.6.C.3.DD - Submission of a cost estimate for setting performance guarantees. We are requesting a waiver of this submission requirement because there are no public or shared improvements proposed as part of this project.

Thus strict compliance with the required application submission would be excessive in light of the nature of the proposed structure or 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 Grant a Waiver Request under Section 6.6.4 for Article 6.6.C.3.EE - Submission of other state and federal permits. The proposed development will require additional permitting from both the Maine Department of Environmental Protection (DEP) and Army Corps of Engineers (ACoE). The DEP is requiring that we submit a Natural Resources Protection Act Permit By Rule Notification Form and show that we comply with the standards under Section 4 for Replacement of Structures. The notification form cannot be submitted to DEP until

we have received approval of the project from the Town of Ogunquit to show that it meets the Shoreland Zoning standards. We also will need to file an application for a Category 1 permit with the ACoE. This permit will be filed with the Corps prior to the first Planning Board meeting, but it may take some time to obtain approval. We request that this submission requirement be waived and the Board consider approval of the project conditional upon both DEP and the ACoE approvals be submitted to the Code Enforcement Officer.

Thus strict compliance with the required application submission would be excessive in light of the nature of the proposed structure or 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. Wilkos asked if all the required State Permits would be in hand by the time the Board's votes on Final Approval for this project.

Mr. Walsh responded some permits may not be available because they will not be issued until the Planning Board grants its approval.

Mr. Heyland agreed that obtaining these permits may be a condition of Planning Board Approval and no building permit will be issued without them.

Ms. Freedman Moved to Find the Site Plan Application Complete 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.

FREEDMAN/SIMPSON 5:0 UNANIMOUS

At this time the Board reviewed the Design Review Submissions Checklist and found all submissions sufficient.

Ms. Freedman Moved to find the Design Review Application Complete 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.

FREEDMAN/SIMPSON 5:0 UNANIMOUS

Mr. Wilkos informed the Applicant that the Public Hearing would take place on November 9, 2015 at 6:00 p.m.

H. CODE ENFORCEMENT OFFICER BUSINESS – None

I. OTHER BUSINESS –

Discussion of Ogunquit Historic Preservation Commission Chairman Design Review feedback to the Planning Board.

Mr. Wilkos informed the Board members that he met with the Chair of the Ogunquit Historic Preservation Commission and Select Board Liaison for the OHPC. It is their opinion that the Planning Board could do a better job with Design Review. The new single family home at the entrance to Perkins Cove was specifically mentioned and he was informed that the OHPC feels that structure is too large for the neighborhood.

The Planning Board members all agreed that while it is a large building it is not unattractive.

Ms. Bevins noted that it is difficult to imagine a new structure and how it will appear when built. She suggested it is particularly difficult to evaluate height in relation to other buildings in the area.

Mr. Simpson stated that the Planning Board, and usually applicants, are very receptive to OHPC suggestions and comments.

Mr. Hayes asked what exactly the OHPC would like the Planning Board to change?

Newell Perkins, Chair of the Ogunquit Historic Preservation Commission (OHPC) addressed the Board. Mr. Perkins stated that the Planning Board should require the quality of Design Review Application which they received from the Blue Water Inn: quality plans and drawings with correct dimensions.

Mr. Perkins referred to the recent Planning Board review of the property at 7 Oarweed Lane. Mr. Perkins stated that the building at 7 Oarweed Lane is taller and wider than the original plans indicated it would be. He went on to say that the original elevation presented to the Board and the OHPC indicated a single step into the building and the existing building now has three steps. He suggested that the Board is not receiving true sets of plans from the applicants. Mr. Perkins suggested the Board require quality plans, such as Mr. Wells' plans for the Blue Water Inn, which, accurately reflect what will be built, and finished buildings which look like what those plans represented.

Mr. Perkins informed the Board that there are other properties which, when built, were not what the OHPC and the Board looked at during the review process. He suggested the use of the CAD Drawing Program does not provide an accurate representation of what the finished buildings will look like.

Mr. Perkins went on to say that when this occurs, the Board and the Town's response is "what can we do? We can't make them take it down."

Ms. Bevins asked if the OHPC noticed a problem when the house at 7 Oarweed Lane was being built.

Mr. Perkins responded that they realized it when the plywood was up and the windows were in. He also stated that he doesn't go to the Cove in the summer because the traffic is an irritation, and this building went up very quickly. He stressed that it is taller and fatter, and it does not reflect the drawings presented by the Applicant.

Mr. Wilkos asked what the OHPC believes should happen when a building is built that does not conform to what the Planning Board approved.

Mr. Perkins responded that he has never seen an applicant be forced to remove a building.

Mr. Wilkos asked Mr. Heyland if he checks the building against what the Board Approved.

Mr. Heyland responded that he does, he checks the window placement, building height, width. He went on to say that the house on Oarweed Lane meets all the requirements, he personally measured the height of the building twice, and it was built as approved.

Mr. Heyland suggested the difficulty may be that beauty is in the eye of the beholder. The owner of the Oarweed Cove building went to a great deal of trouble and expense to make it an attractive structure that reflects other buildings in that area.

Ms. Bevins agreed that it appears high however it is an attractive building.

Mr. Hayes asked Mr. Perkins if he is suggesting that applicants be required to provide free hand drawn elevations.

Mr. Perkins responded that he wants the Board and the OHPC to receive accurate drawings. He reiterated that, while the Oarweed Cove building may meet all the Code Requirements, it does not reflect the originally submitted drawings and plans.

Ms. Freedman reminded everyone that there was a building in Perkins Cove which was built in excess of the height restrictions and the Town made the owner remove the roof and lower the height. She stated that the Code Enforcement Officer does check those things.

Mr. Perkins responded "rarely!".

Mr. Heyland asked Mr. Perkins to tell him exactly what other problems there are.

Mr. Perkins responded "That's fine".

Mr. Heyland suggested that it is difficult to positively envision how a structure will fit into the neighborhood when the Board is presented with a photograph with a drawing of the proposed structure superimposed onto it. He also pointed out that one of the items on the Design Review Guideline is "scale of the building". He asked if scale is in reference to: the street, the building to the left or right of the new structure, or to other buildings in the vicinity. He agreed that the building to the right of the Oarweed Lane structure is a single story building so of course the new building will appear to be larger than it really is.

Selectman Dave Barton, Liaison to the OHPC informed the Board that the Bluewater Inn drawings clearly indicated the exact dimensions of the building. He stated that CAD Drawings lack dimensions which allows the developer to take a lot of leeway. He suggested that the “cartoon type drawings” should not be accepted. He agreed that the building in the Cove may meet the height restrictions however it would have been better if the Applicant had provided exact measurements instead of the generalized building envelope. He asked the Board to require squared-off elevations instead of photographs which clearly indicated how a proposed structure will fit into the neighborhood.

Mr. Hayes asked Mr. Barton if he would prefer to see a set of plans that are hand drawn. He noted that this would put a large added expense on the applicant.

Mr. Barton responded that Ogunquit should be an upscale town and asking a developer to go the extra step which will tell the Board and the OHPC what they need to know is not a hardship. He suggested the Board request solid models of proposed structures.

Mr. Hayes stated that he has no problem with the Oarweed Cove building. He does not believe that the applicant intentionally deceived the Board.

Mr. Simpson cautioned the Board that there may be legal implications if the Board reopens the Perkins Cove application.

Helen Horn, OHPC asked the Board to be sensitive to the designs of buildings in historic areas like the cove. She asked the Board to look at design plans in context.

Mr. Perkins informed the Board that Design Review gives the Board the opportunity to review; and ask applicants to reduce height or scale to make the proposed structure more in keeping with neighboring buildings. He specifically referred to Perkins Cove, Shore Road, and Beach Street. He stated that if the Board is unwilling to make a zoning change then they need to eliminate Title 11 and do away with the OHPC.

He went on to say that “Ogunquit is Shore Road, and Perkins Cove and if the charm and ambiance is allowed to be destroyed the property values on Berwick Road and other parts of town will drop. Tourists come to Ogunquit for that charm and ambiance and without that Ogunquit becomes just another town”.

Mr. Wilkos thanked the OHPC for their comments.

ANNOUNCEMENTS

Mr. Wilkos announced that the Planning Board will only hold a single meeting in December. That meeting will take place on December 14th and the submission deadline is November 30th.

J. ADJOURNMENT -

**Mr. Simpson Moved to Adjourn at 7:45 p.m.
SIMPSON/BEVINS 5:0 UNANIMOUS**

Respectfully Submitted

Maryann L. Stacy

Maryann Stacy

Town of Ogunquit

Planning Board Recording Secretary

Approved on November 9, 2015