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OGUNQUIT PLANNING BOARD MINUTES MONDAY JANUARY 11, 2016

REGULAR BUSINESS MEETING

A. ROLL CALL –

Members Present: Steve Wilkos (Chair)
 Muriel Freedman (Vice Chair)
 Don Simpson
 Rusty Hayes
 Jackie Bevins

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 - December 14, 2015

Mr. Simpson Moved to Accept the Minutes of the December 14, 2015 Public Hearing and Meeting as Amended.

SIMPSON/HAYES 4:0 (Ms. Bevins was excused from the December 14, 2015 Meeting)

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

Helen Horn (63 Juniper Lane) asked the Board to consider the impact of Air BnB accommodations in residential areas. She suggested they are a detriment to the quality of life for people who live there.

F. UNFINISHED BUSINESS –

1. LAFAYETTE OGUNQUIT LLC/NORSEMAN 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.

Attorney Brad Morin addressed the Board as the Applicant's representative.

Attorney Morin informed the Board that the Applicants have received the Maine DEP Coastal Sand Dune Permit. They also have presented amended plans indicating the change in the height of the deck dividers. Attorney Morin stated that the application meets all DEP and Town standards and he asked the Board to approve the application at this meeting.

Geoff Aleva, Civil Consultants addressed the Board. He confirmed approval of the DEP Sand Dune Permit. Mr. Aleva summarized that most of the changes to the plan are note changes as requested by the DEP. They include comments on Sheets L1 and L3 pertaining to the seawall and fence on the western edge of the property. They also submitted revised elevations which illustrate the Maine DEP specifications for the lattice work on the lower section of the building, which allow for sand and water flow through. Mr. Aleva presented a mockup of the material and lattice construction prepared by Doug Gains from the Lafayette Group. He noted that it meets the DEP requirements of four inch flow through of sand and water; it also provides a visual buffer between the area under the building and the public sidewalk.

The elevations also indicate the reduction of the height of the street side deck dividers.

Mr. Aleva reiterated that the revised plans meet all the DEP and Town requirements and he asked for approval.

Mr. Wilkos reminded everyone that this is a two part application: Design Review and Site Plan Review.

Mr. Wilkos noted that the Ogunquit Historic Preservation Commission (OHPC) submitted a memo to the Board. However this application does not involve a pre 1931 structure, and does not require the Applicant to meet with the OHPC.

The Board reviewed Article 11.7.C of the Ogunquit Zoning Ordinance and found all standards met.

Mr. Wilkos noted for the record that the height of the new Blue Water building will be twenty-eight feet (28'), the Neptune is twenty-eight feet (28') high, and this structure will be thirty-four feet five inches (34'5") high. The Board agreed that the proposed structure is compatible with its neighbors.

Mr. Wilkos expressed his opinion that the proposed building is out of proportion to those around it.

**Mr. Simpson Moved to Approve Design Review for LAFAYETTE OGUNQUIT LLC/NORSEMAN HOTEL – 115 Beach Street – Map 7B Block 86 Shoreland General Development 1 (SG1). Site Plan for a post 1931 structure. Application to reconstruct building destroyed by fire.
SIMPSON/BEVINS 5:0 UNANIMOUS**

Mr. Wilkos moved on to Site Plan Review and asked Mr. Heyland what conditions of approval he would like the Board to make.

Mr. Heyland responded that the four inch lattice opening between the slats as required by the DEP needs to be confirmed. He noted that the openings on the proposed flow through lattice do not line up and he would like confirmation from the DEP that this is acceptable.

Mr. Aleva responded that he described it to Christine Woodruff, however he will get confirmation from her that the proposed lattice is acceptable to the DEP.

Mr. Heyland asked Mr. Aleva about the use of vegetable oil in the elevator.

Mr. Aleva responded that he spoke with Randy Campbell from Stanley Elevator. The oils that they use are biodegradable, in addition the elevator shaft will be in its own container. Should there be any leakage the oil would flow into the elevator pit which is sealed off from the outside with protection in the concrete and water stops around the perimeter. In addition there will be a sensor in the sump pump which will trigger an alarm at the front desk should any oil be detected. As soon as the sensor senses oil the sump pump will shut down so no oil contaminated water will be pumped out.

Mr. Hayes asked about the use of vegetable oil. He noted that hydraulic fluids may take up to one year to degrade, while vegetable oil degrades in about twenty-eight days. He would like the oil to be vegetable. In addition he stated that a scent may be added to the oil.

Mr. Aleva reiterated that any leakage of oil will end up in the sump, and they have multiple safety mechanisms in place to prevent any oil discharge into the environment.

Mr. Wilkos polled the Board members asking if they would prefer the use of vegetable oil:

Ms. Bevins stated she would prefer vegetable oil.

Mr. Hayes agreed.

Mr. Wilkos agreed.

Ms. Freedman read a letter from a resident who stated that Mr. Gains promised her they would use vegetable oil.

Mr. Aleva responded that he was unaware of that, and they would use vegetable oil.

Mr. Wilkos noted the three conditions of approval:

- 1) DEP confirm that the four inch, multilayered, flow through is acceptable;
2. Vegetable oil will be used in the elevator;
3. DEP conditions of approval track through to Planning Board Approval as well.

Mr. Heyland noted that the realignment of the building will reduce the sidewalk width somewhat. He indicated that the sidewalk will be about four feet eight inches (4'8") wide. He referred to the proposed use of planters and asked if the planters could be pushed back to allow for greater pedestrian passage.

Mr. Aleva responded that they can shift the planters to increase the sidewalk space.

Mr. Heyland asked if the sidewalk brick pavers will extend up to the face of the flow through foundation.

Mr. Aleva agreed that they will match the sidewalk brick right up to the face of the building for the entire length of the building.

The Board reviewed the Site Plan Review standards as outlined in Section 6.7 of the Ogunquit Zoning Ordinance and found all requirements to be met.

Mr. Simpson Moved to Approve the Site Plan Application for LAFAYETTE OGUNQUIT LLC/NORSEMAN HOTEL – 115 Beach Street – Map 7B Block 86 Shoreland General Development 1 (SG1) for a post 1931 structure. Application to reconstruct a building destroyed by fire, with the following conditions of approval:

- 1) DEP confirm approval of the proposed flow through multi-layer, four inch (4") scheme;
 - 2) Elevator will use vegetable oil and will be alarmed;
 - 3) DEP Permit conditions of approval follow through Planning Board Approval.
- SIMPSON/FREEDMAN 5:0 UNANIMOUS**

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

Attorney Durward Parkinson addressed the Board as the Applicants' representative. Attorney Parkinson informed the Board that per their request the Applicants met with the neighbors to discuss the planting of trees along the property border. This meeting took place on December 22, 2015. He noted that not everyone agreed on everything however the Applicants have agreed to require the owners of these lots plant two, four inch (4") caliper trees along the property border, and that this requirement may be included as a condition of approval or added to the future deeds.

Attorney Parkinson also informed the Board that the Applicants have provided a letter indicating that there is no storm water impact. They have also submitted a letter of credit confirming their ability to complete the project.

Mr. Hayes asked how high the trees will be.

Attorney Parkinson responded that they would probably be four or five feet high depending on the species, and the Applicants would be happy to have the height be a condition of approval. He added that the new owners should have the right to choose what type of tree they want to plant.

Ms. Bevins suggested the Board hire John Patten to come before the Board to discuss a buffer/landscape plan.

Attorney Parkinson reiterated that the December 22nd meeting was made in good faith, abutters were invited to attend and while not everyone agreed to everything the Applicants believe their compromise/suggestion will suffice: each lot owner will plant two, 4" caliper trees along the property boarder. He suggested that coming back before the Board with a landscape architect is unreasonable and more than has been required of other applicants.

Ms. Bevins responded that she wants to see them come back with a landscape plan, she noted that the neighbors are very concerned about the buffer. She went on to say that originally this property was one lot. Owners of one lot may cut whatever trees they like. She suggested trees were removed prior to the Applicants submitting their subdivision plan in an attempt to circumvent the subdivision regulations which would have required them to mark, for Planning Board review, which trees were to be removed.

Ms. Freedman responded that the Board doesn't have the right to tell the property owners what they can and cannot do with their property.

Mr. Wilkos asked Mr. Feldman to explain what the Board may do regarding requiring buffering along the property edges.

Mr. Feldman responded that Subdivision Regulation Section 9.11.1 allows the Board to require additional street trees and require the owner to maintain them for one year and replace them if they die. He is unsure if the Subdivision Regulations have the same standard as the Zoning Ordinance which allows the Board to hire an expert, at the Applicants' expense.

Mr. Heyland noted that Section 9.5 of the Subdivision Regulations allows the Board to review the removal of any trees 6" or greater, which is probably what Ms. Bevins is referring to. However in this case the property was a single family lot with no conditions of tree removal. He also noted that there is no requirement for buffering to an adjacent residential property, however the Board could discuss a "landscape plan". He referred to Section 9.5.1 of the Subdivision Regulations which allows the Board to review the preservation, planting, or replanting of trees. He added that the Applicants' offer to require the planting of two trees, per lot meets the standard and it will be up to the Board to determine if that is enough.

Mr. Simpson asked if the person who will build the house will be the one required to plant the trees.

Mr. Heyland agreed and noted that any conditions of approval will be included on the final plans and at the time of construction he would confirm that the conditions are met prior to the issuance of a Certificate of Occupancy.

Mr. Wilkos agreed with Ms. Bevins, he noted that the abutters feel that the proposed landscape plan is insufficient. He asked how the other Board members feel.

Mr. Hayes responded that some buffering is needed, however he would like to confirm the caliper and height of the required trees. He agreed that the Applicants have made every effort to make the neighbors happy. He did not feel a landscape architect review is needed as long as the Board discusses the caliper, height, and number of trees.

Ms. Bevins responded that it is her understanding that there was no agreement with the abutters.

Attorney Parkinson added that no buffer is required between residential abutters.

Ms. Freedman agreed with Mr. Hayes.

Mr. Simpson also agreed with Mr. Hayes. He added that the Board needs to discuss the number of trees as well as the caliper and height but they do not need the services of a landscape architect.

Mr. Wilkos noted that there has been a great deal of input from the public regarding this application. He asked if the Board should hold a 2nd Public Hearing prior to final approval.

Ms. Bevins responded that she would like to hold another Public Hearing.

Mr. Hayes, Ms. Freedman, and Mr. Simpson disagreed.

Attorney Parkinson informed the Board that the Applicants would agree to a condition of approval requiring the planting of three trees, 4" caliper, eight to ten feet tall.

Mr. Simpson suggested Scotch Pines would work, they grow very quickly and do not lose their lower branches, so they provide an effective buffer. They are also very wide and hardy. He suggested a condition of approval of the planting of three Scotch Pines, eight to ten feet tall, along the property line.

Mr. Wilkos noted that before the Board can approve the trees they need to see a plan indicating where the trees will be planted.

Mr. Hayes responded that it should be up to the property owner to choose where the trees should be planted to optimize privacy for the home being built as well as the neighbors. He suggested that whoever purchases the lots should design their own landscaping. He added that when he purchased his property he removed several rotted pine trees and replaced them with more trees than were there before.

Mr. Simpson agreed and added that the Board doesn't know where on the lots the houses will be built or what the designs will be.

Mr. Wilkos polled the Board asking if the Board should hold another Public Hearing.

Mr. Hayes responded that he has reviewed all the correspondence from the public. He pointed out that there was a great deal of misinformation circulating. He noted that one abutter sent out 300 form letters to the public asking them to sign the letter and return it to the Board. Out of those 300 letters 100 were returned as undeliverable. The Board received 75 letters from people who were opposed, and one family sent in 15 letters.

Ms. Freedman noted that the Board held a public hearing and only three people showed up.

Mr. Simpson added that he did not believe another Public Hearing would help, it would only serve to cause more confusion. He agreed that the Applicants complied with the Board's request to meet with the neighbors and that they made a good faith effort.

Mr. Wilkos reiterated that the Board has the opportunity to hold a 2nd Public Hearing.

Ms. Freedman responded that the Board voiced its opinion and it was three to two not to hold another Public Hearing.

Mr. Simpson reminded everyone that in addition to the public hearing the Board held a site visit.

Mr. Feldman suggested the Board review the waivers and confirm the application's completeness before they proceed any further.

Mr. Feldman reviewed the waiver requests and noted that:

The Applicants have requested a waiver from having to submit a letter of credit, or bond, to the Town because there were no improvements being made. He disagreed, pointing out the extension of the sewer line. The Applicants have now submitted a letter of credit from a local bank which also covers the waiver request for proof of financial ability to complete the project. In addition the water and sewer districts will require bonds for road opening. Thus both of these waiver requests are no longer required.

He (Mr. Feldman) also suggested, to the Applicants, that they check to see if the roofs and driveways would cover more than 5% of the subdivision. The Applicants submitted a storm water analysis. He (Mr. Feldman) has reviewed it and is satisfied with the results. Thus this waiver is no longer required.

Mr. Feldman noted that the Department of Inland Fisheries and Wildlife has reviewed the site and determined that there are no issues with endangered species. Thus this waiver request is no longer required.

Mr. Feldman stated the he no longer has any issues or concerns with submissions; and all the waiver requests are satisfied.

Mr. Wilkos confirmed that Mr. Feldman provided a memo (dated January 12, 2016) to the Board regarding the above noted waiver requests.

Mr. Simpson Moved to Approve the Final Subdivision Application for CHERRY LANE PROPERTIES, LLC – 67 Cherry Lane – Map 4 Block 84 – One Family Residential District (OFR). Subdivision Final Plan Application for three lot subdivision including an existing pre-1931 structure, with the following conditions of approval:

1) On the two new house lots there will be a minimum planting of three (3) Scotch Pine trees which will be a minimum of four inch (4”) caliper, and a minimum height of eight (8) to ten (10) feet, and they will be planted along the boundary. The individuals building the new homes must submit plans indicating the locations of the new trees to the Code Enforcement Officer prior to his approval;

2) all improvements involving water and sewer be completed prior to the conveyance of the lots;

3) Any monumentation placed on the property must meet the Ordinance requirements in Section 9.12.2.2 which require granite or stone monumentation as well as required depths and sizes.

SIMPSON/HAYES 5:0 UNANIMOUS

G. NEW BUSINESS –

1. GRAHANELI, LLC/MOLLY TROLLEY DEPOT – 724 Main Street – Map 11 Block 6 – GBD2/SLC/R/RP. Site Plan Review for a post 1931 structure. Application for new commercial use of livery service with coffee counter and sundries store.

James Wright from Post Road Surveying, addressed the Board as the Applicant’s representative. Mr. Wright distributed full sized plans to replace the 11”x17” plans included in the original application packet.

Mr. Hayes indicated that he will need time to review the new full sized plans because the 11”x17” plans were too small to clearly read. He also noted that the Board requires 1” = 30’ and the Applicant submitted plans which were 1”=20’. This does not meet the submission requirement.

Mr. Wright summarized the proposed plan which will rehab the old restaurant property. The existing building has been repaired and remodeled to weatherproof it. The existing site will contain a parking lot with a shuttle service to North Beach and Footbridge Beach. Inside the building there will be a coffee shop, a gift / sundries shop, as well as a ticket office for a charter

trolley service which the Applicant currently runs out of a Wells location. The parking layout will be restructured to pull it back and make it comply with ordinance requirements.

Mr. Wright noted that the property is already well vegetated and buffered from abutting properties which contain commercial and residential uses.

In addition to rehabilitating the site the Applicant also wants to permit a single family dwelling to be built sometime in the future.

Mr. Wright noted that the project will have a one-way internal traffic flow, with the entrance at the north end of the property and the exit at the southside driveway. He noted that curb cuts are already in place. The existing internal sidewalk from the parking lot to the building entrance will be relocated slightly. No design changes are proposed for the building.

Mr. Hayes asked Mr. Heyland if any work done after Board approval must commence within one year of that approval.

Mr. Heyland agreed that any Board approval for a new residential use would require the Applicant to start construction within one year or return prior to that time and request an extension.

Ms. Freedman asked about the changes to the “walkway”.

Mr. Wright responded that the walkway already exists. It connects the parking spaces to the front door of the building. They will only be moving it a little to the north. He added that the site currently has more than 100 parking spaces, they will be reducing that number to 78.

Ms. Freedman asked if the business will be an hourly paid parking lot.

Mr. Wright responded that it will be a paid parking lot.

Mr. Wilkos noted that “paid parking lot” wasn’t included in the application.

Ms. Freedman stated that the application included the comment that patrons may park on site and cross Route One to get the trolley. She asked why someone would pay to take the town trolley if the Applicant is providing free transportation to the beaches.

Jamie Bradish (Applicant) responded that he will have three uses at the property. The primary use will be livery trolley charter service. They will have three accessory uses: paid parking with free transportation to the North and Footbridge Beaches, coffee shop, and gift shop.

He added that he will have to pay for a permit to transport patrons to the beaches. He intends to use this facility as a type of advertising sales tool for his trolley construction/business. He stated that he does not want to be involved with the Town trolley route. This is one of the reasons he isn’t offering shuttle service to the Main Beach.

Ms. Freedman asked about shuttle times.

Mr. Bradish responded that he will take people to the beach as they arrive. He anticipates 8 to 10 trips per day.

He stated that he will only run one beach shuttle trolley at a time and he anticipates no more than 6 trolleys will be stored on site at night. These trolleys are for his charter service for weddings etc. He needed an office with better visibility and access so that customers can easily find and visit it. The livery/charter business doesn't occur at the site. Trolleys will pick people up for things like wedding transportation to restaurants etc.

Ms. Bevins asked if patrons can park on site and cross Route One to catch the Town trolley.

Mr. Bradish responded that they can if they want to go somewhere other than North and Footbridge beaches.

Ms. Freedman asked why he included room counts for nearby hotels and Riverside Park.

Mr. Bradish responded that he was approached by local businesses to transport their guests, as well as other foot traffic that may utilize his facility.

Mr. Simpson asked if guests staying at nearby hotels could walk over and take his trolley to North and Footbridge Beaches.

Mr. Bradish responded that they could, however if they did not pay to park in his lot they would have to pay for the trolley ride to the beach.

Mr. Simpson asked why someone would do that rather than take the town trolley.

Mr. Bradish responded that he has nice new trolleys.

Mr. Wilkos informed Mr. Wright that he needs to number the parking spaces on the plan.

Mr. Wright agreed to do so.

Mr. Hayes asked if any maintenance or other work would be done on the trolleys on site.

Mr. Bradish responded that there would not be any work on the trolleys at that location.

Mr. Wilkos reviewed Mr. Heyland's memo to the Board (dated 12/29/15) wherein Mr. Heyland noted, among several points, that the Board should consider the need for a traffic study as required in Section 6.6.C.U of the Zoning Ordinance.

Mr. Wilkos asked if the proposed project requires ten (10) or more parking spaces.

Mr. Wright responded that it does.

Mr. Heyland noted that there is some uncertainty as to how many parking spaces a parking lot requires. A parking lot can have as many parking spaces as it can hold. He noted that the Board can determine the required number of spaces for the coffee shop and gift shop, however he did not have the building's interior organization plan. He would need clarification of the amount of specific uses inside the building.

Ms. Bevins noted that the Board was requiring a traffic study for all proposed paid parking lots on Route One.

Mr. Heyland informed Mr. Wright that he may have used the Town's old zoning map. He pointed out a small inaccuracy on the Applicant's site plan regarding the SLC. For review purposes they hold the same dimensional purposes, but the site plan should be corrected to indicate the SLC area.

The Board unanimously agreed that a traffic study is required.

Mr. Heyland also informed the Applicant that after he removes all the land used for the parking lot and the building he must have 40,000 square feet remaining for a residential dwelling.

Mr. Wright responded that he calculates they will have approximately 48,000 square feet and he will clarify it on the site plan.

Mr. Wilkos asked about a lighting plan.

Mr. Bradish responded that the building already has exterior lights on it, and there is an existing utility pole where they will install a security light for the back of the building. There will also be lighting for the sign.

The Board requested elevation drawings for any proposed signs and the labeling of walkways on the plans.

Mr. Wright agreed to all the other requirements as noted in the Code Enforcement Officer's December 29, 2016 memo.

Mr. Heyland noted in his memo that the Board needs to determine that this proposed project is not in conflict with the Town's contracted trolley service.

The Board agreed that the Town's attorney should review the proposed project.

Mr. Simpson noted that the drawings do not contain dimensional notations regarding the parking plan. He also noted that the Applicant must meet all standards outlined in Article 8.10.B of the Ogunquit Zoning Ordinance.

Mr. Wright responded that he will make notations on the plans which will indicate the measurements of the parking spaces and other parking area measurements.

Mr. Simpson stated that the Board has agreed to seek a review from the Town Attorney. In addition the Applicant needs to come back with a revised application and traffic study. He suggested the application be tabled pending submission of these things.

The Board agreed.

Mr. Heyland pointed out that the Board can not set a Public Hearing without reviewing the waiver requests.

Mr. Simpson Moved to table the application for GRAHANELI, LLC/MOLLY TROLLEY DEPOT – 724 Main Street – Map 11 Block 6 – GBD2/SLC/R/RP. Site Plan Review for a post 1931 structure. Application for new commercial use of livery service with coffee counter and sundries store, pending submission of a complete application, traffic study, and review by the Town’s attorney for any conflict with the Town’s contracted trolley service.
SIMPSON/FREEDMAN

Ms. Freedman pointed out that the applicant indicated on the application form that the site will have a subsurface wastewater disposal system.

Mr. Wright responded that this was a typo and he will correct it and resubmit the corrected form.

Mr. Simpson’s motion was restated:

**Mr. Simpson Moved to table the application for GRAHANELI, LLC/MOLLY TROLLEY DEPOT – 724 Main Street – Map 11 Block 6 – GBD2/SLC/R/RP. Site Plan Review for a post 1931 structure. Application for new commercial use of livery service with coffee counter and sundries store, pending submission of a completed application, traffic study, and review by the Town’s attorney for any conflict with the Town’s contracted trolley service.
SIMPSON/FREEDMAN 5:0 UNANIMOUS**

Mr. Simpson asked if the project would require any road opening. He noted that once Route One is repaved by the DOT there is a five year wait to reopen it.

Mr. Wright responded that they have no need to open the road.

Mr. Wright was informed that in order to place this application on the Board’s January 25, 2016 Agenda he must have all material submitted to the Land Use Office by Tuesday January 19th.

H. CODE ENFORCEMENT OFFICER BUSINESS –

Mr. Heyland asked the Board to consider the language submitted by the Town Attorney regarding the waiver request protocol. He noted that they may want to schedule a workshop to discuss it.

Mr. Wilkos read a memo from the Town's attorney which stated that the Board's role is to review applications to determine whether they comply with the applicable regulations. The Board can consider any relevant information on the application including information from citizen communications. However, a project that meets the standards, or meets them with conditions of approval cannot be denied because people don't like it regardless of the number of opponents. Similarly a project that doesn't meet the standards cannot be approved just because people like it.

I. OTHER BUSINESS – None

J. ADJOURNMENT -

**Mr. Simpson Moved to Adjourn at 8:20 p.m.
SIMPSON/HAYES 5:0 UNANIMOUS**

Respectfully Submitted

Maryann Stacy

Town of Ogunquit
Planning Board
Recording Secretary

Approved on January 25, 2016