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**OGUNQUIT PLANNING BOARD
REGULAR BUSINESS MEETING MINUTES
DUNAWAY CENTER MAIN AUDITORIUM
MONDAY JANUARY 9, 2017**

REGULAR BUSINESS MEETING

A. ROLL CALL –

Members Present: Steve Wilkos (Chair)
 Muriel Freedman
 Jackie Bevins
 Rusty Hayes
 Mark MacLeod (1st Alternate)

Members Excused: Don Simpson (Vice Chair)

Also Present: Scott Heyland, Code Enforcement Officer
 Maryann Stacy, Recording Secretary

Mr. Wilkos confirmed that all cell phones were off the table, and that a quorum was present.

Mr. Wilkos moved Mr. MacLeod from 1st Alternate to full voting member in Mr. Simpson's absence.

B. PLEDGE OF ALLEGIANCE -

C. MISSION STATEMENT – The Mission Statement was read by Ms. Freedman.

Mr. Wilkos informed the public that notification will be mailed out shortly informing people of the upcoming Comprehensive Plan Survey and providing instructions on how to take the online version and how to obtain paper copies.

D. MINUTES - November 14, 2016 ORA Workshop and December 12, 2016.

**Ms. Freedman Moved to Accept the Minutes of the November 14, 2016 Planning Board / ORA Workshop as amended to include Attachment A as submitted by Mr. Hayes.
FREEDMAN/MACLEOD 5:0 UNANIMOUS**

Mr. Hayes Moved to Accept the Minutes of the December 12, 2016 meeting as amended.

HAYES/BEVINS 4:0 (Mr. MacLeod was not in attendance at the December 12th Meeting)

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.

Mr. Wilkos informed the public that there are three proper ways to contact the Planning Board:

1. Use the "Contact the Planning Board" link on the Town's website.
2. Send an e-mail to the Recording Secretary without copying any of the Planning Board members. The e-mail will be forwarded to the Planning Board Chairman.
3. Hand deliver, or mail, correspondence to the Recording Secretary at the Land Use Office for distribution to the Board.

Mr. Wilkos stressed that no member of the public should e-mail or contact any member of the Planning Board directly regarding Planning Board business.

F. UNFINISHED BUSINESS –

1. Discussion of Workshop Topic:

a) Determination of Failed Intersections in Ogunquit.

Mr. Wilkos noted that this item was moved up in the agenda to accommodate Town Planner Lee Jay Feldman. Mr. Feldman was not in attendance and Mr. Wilkos moved this item back to the "Other Business" portion of the meeting.

G. NEW BUSINESS –

1. TOWN OF OGUNQUIT / JACOB'S LOT PUBLIC RESTROOMS – 180 Main Street – Map 6 Block 40-B – DBD. Design Review for a post 1930 structure. Application to renovate existing public restroom.

Harvey Wells addressed the Board as the Applicant's representative. Mr. Wells presented and summarized the proposed plan as noted in the application packet which was submitted on December 7, 2016.

Mr. Wells noted that there are several options for the interior; including the use concrete flooring or tile. He stated that the building will be insulated and will contain a closet for heating and hot water equipment.

Ms. Freedman pointed out that the existing Women's Bathroom has three stalls, the new plan calls for five stalls.

Ms. Bevins suggested that the plan for the stalls in the Women's Bathroom looks tight. The stalls look very narrow. Ms. Bevins also recommended additional windows for better ventilation. She stressed that fresh air needs to move through the bathrooms.

Mr. Wells responded that the awning windows can be opened. He added that there is plenty of room in the rear to add more windows.

Ms. Freedman asked if the front frosted windows could be opened.

Mr. Wells responded that the intent was for them to be kept closed, however that can be changed.

Ms. Freedman pointed out that with the changes to the entrances new space will be created. She felt there will be ample space for what is proposed.

Mr. MacLeod asked if the bathrooms would be heated.

Mr. Heyland responded that the current structure has a warm air furnace in the attic truss which is inadequate. He noted that the current building has hardly any insulation. He informed the Board that the new furnace will be located in the small equipment room within the building. The hot water will be on demand so there will be no need for a hot water storage tank. The plan is for the equipment room to house heating equipment and a small amount of paper products.

Ms. Bevins asked for the dimensions of the bathroom stalls.

Mr. Wells responded that they will be the standard four feet deep and three feet wide. The handicapped stall will be five foot square.

Mr. Wilkos asked if the other board members felt they should hold a Public Hearing. He noted that this is a public building and he felt a Public Hearing is called for.

Mr. Heyland responded that the original plan was to demolish the structure and construct a completely new public bathroom. After further review it was determined that the foundation and outer walls and roof are in good shape and will be maintained. He agreed that a public hearing would be helpful.

The Board unanimously agreed to hold a Public Hearing.

Mr. Hayes Moved to Find the Application Complete for TOWN OF OGUNQUIT / JACOB'S LOT PUBLIC RESTROOMS – 180 Main Street – Map 6 Block 40-B – DBD. Design Review for a post 1930 structure. Application to renovate existing public restroom.
HAYES/MACLEOD

Mr. Wilkos called for discussion. There being none he called for a vote on Mr. Hayes' motion:

Mr. Hayes Moved to Find the Application Complete for TOWN OF OGUNQUIT / JACOB'S LOT PUBLIC RESTROOMS – 180 Main Street – Map 6 Block 40-B – DBD. Design Review for a post 1930 structure. Application to renovate existing public restroom.

HAYES/MACLEOD 5:0 UNANIMOUS

Mr. Wilkos noted that the next meeting, and the Public Hearing, will take place on January 23, 2017 at 6:00 p.m.

2. OGUNQUIT SEWER DISTRICT – 80 Marshview Lane – Map 10 Block 54 – SGD1- Design Review and Site Plan Review for a post 1930 structure. Application to add a second story and new access stairwell to existing garage. Also, internal modifications and ADA entrance improvements to existing control building.

Phil Pickering, Ogunquit Sewer District Superintendant addressed the Board. Mr. Pickering summarized the proposed plans as submitted on December 27, 2016. He noted that the last upgrade was in 1993 and a lot of the mechanical equipment has reached its limit. The primary reason to expand this structure is to move the electrical equipment up to a safe elevation.

Travis Pryor from Wright-Pierce Engineering provided an overview of the proposed plans and responded to questions from the Board. He added that the District intends to install photovoltaic cells on some portion of the structure.

Mr. MacLeod pointed out that the Survey Field Notes on the drawing labeled S1 – Easements Notes: 9,b,c,d, and l state the State of Maine has not granted an easement for the land between the high tide and the low tide. He asked what this means for the Town and if this is an issue they need to be concerned about.

Mr. Pryor responded that these are generic notes and between the highest annual tide and the mean low water mark is an intertidal zone which technically belongs to the State; and the public has access to use.

Mr. MacLeod quoted from the Survey Note which states “therefore the State of Maine should have joined the Town for the conveyance of this easement”. He asked if this indicates the Town has a problem. He clarified that these notes are found on Sheet S1 in Notes 9, b, c, d, and l.

Mr. Heyland asked if the reference is to the outfall pipe.

Mr. Pickering confirmed that it is.

Mr. MacLeod suggested that the Town of Ogunquit granted an easement to the Sewer District however the State of Maine did not.

Mr. Pryor agreed to consult with the surveyor and research the deeds and provide the Board with an explanation.

Mr. Pickering added that the survey was prepared for another project; the current application is for work which will be completely on Sewer District property.

Mr. MacLeod agreed that it doesn't impact this application; however he is concerned about the implications for the Town.

Mr. MacLeod asked about the height of the new structure and its visibility from the beach, the river, and homes overlooking the estuary; and the sightline for abutters.

Mr. Pryor responded that they will stay within the 35' height restriction. He noted that there are existing trees buffering the property and they do not intend to impact the buffering. He agreed to produce a profile drawing illustrating the view of the proposed structure from the river and the beach.

Mr. Heyland reviewed his Memo to the Board dated December 28, 2017. He confirmed that the Board should consider the vegetative buffering and whether or not the Applicant should add more. He also noted that the proposed building height is 30'5" which is well below the maximum allowable 35'. He asked about lighting and storm water runoff from the proposed flat roof.

Mr. Pickering responded that they will upgrade the perimeter lights to LED which are softer brownish light. He does not anticipate any higher lighting. Regarding storm water runoff, they currently collect about 90% of the storm water runoff that hits paved areas. Everything goes into an older holding tank and it is all processed back through the treatment facility just like wastewater. The Sewer District is non-exempt for storm water management. The new roof collection system will end up in the holding tank.

Mr. Heyland asked if the proposed work is entirely outside of the flood zone.

Mr. Pryor referred to Sheet C and he confirmed that the project is entirely outside of the FEMA 100 year flood boundary. He added that FEMA is currently in the process of updating their maps, and they are looking at higher elevations. This is part of the reason for the proposed work to elevate the equipment. He noted that they will install stop logs to prevent flooding and that the garage is elevated and does not contain any critical equipment.

Ms. Freedman asked about the comment regarding the letter to the Department of Inland Fisheries and Wildlife regarding a limitation on the timing of construction.

Mr. Heyland responded that this refers to the Piping Plovers nesting sites and that there are limitations on construction which might disturb or endanger the nesting birds.

Mr. MacLeod noted that the Notes on Sheet C1 refer to November 1 through April 15th as the construction period.

Mr. Pryor added that there are requirements of the DEP which also must be met and the Applicant will abide by the DEP recommendations.

Mr. Wilkos reviewed memos to the Board from the Ogunquit Police Chief and the Ogunquit Conservation Commission neither of which expressed any concerns or questions.

Mr. Hayes Moved to Find the Design Review Application Complete.
HAYES/BEVINS

Mr. Wilkos called for discussion. There being none he called for a vote on Mr. Hayes' Motion:

**Mr. Hayes Moved to Find the Design Review Application Complete.
HAYES/BEVINS 5:0 UNANIMOUS**

Mr. Hayes Moved to find the Site Plan Review Application Complete.
HAYES/FREEDMAN

Mr. Wilkos called for discussion. There being none he called for a vote on Mr. Hayes' Motion:

**Mr. Hayes Moved to find the Site Plan Review Application Complete.
HAYES/FREEDMAN 5:0 UNANIMOUS**

The Board agreed that a Public Hearing for the Design Review and Site Plan Review Applications would take place on January 23, 2017 at 6:00 p.m.

The Board also unanimously agreed that a Site Visit was needed and scheduled it to take place on January 23, 2017 at 3:00 p.m.

Mr. Hayes asked if the Applicant could flag the height of the structure so the Board members can see how visible it will be from across the river and from the beach. This would allow members of the public to see if they can see the flag and comment at the Public Hearing.

Mr. Pickering agreed to put up a pole with orange flagging; and he estimated that the Site Visit will take about one hour.

3. BLUE WATER INN / LEONA M. LAPIERRE – 111 Beach Street – Map 7 Block 85 – Shoreland General 1 (SG1). Request to amend Design Review. Application to install window style different from that approved on November 8, 2015.

Harvey Wells addressed the Board as the Applicant's representative. Mr. Wells summarized that after the approval of the plan on November 8, 2015 there have been revisions to the exterior of the building. He summarized the changes as indicated on the plans / elevations which were submitted on December 27, 2017. Mr. Wells stated that all the changes are to the exterior of the building and that the internal layout remains unchanged from what was originally approved in 2015.

Mr. Heyland explained why this Applicant has come back before the Planning Board. He reviewed his December 9, 2016 letter to the Applicant:

"Dear Mr. Lapierre,

On November 9, 2015 the Ogunquit Planning Board approved a Design Review for the reconstruction of the Blue Water Inn at 111 Beach Street in Ogunquit. The design

presented for approval consisted of plans prepared by Harvey Wells Architect dated October 7, 2015.

Upon a recent inspection of the ongoing construction, I have determined that there are substantial changes to the approved plans, specifically window and door sizes and locations.

At this time you are hereby ordered to make the necessary adjustments to conform to the plans which were approved by the Planning Board. In the alternative, you may submit a revised Design Plan to the Planning Board for their consideration. You should be aware that there is no guarantee that these changes will be approved; and you may be required to remove the unapproved materials.

My office will make no further inspections until this matter is resolved.

If you disagree with this order you may file an administrative appeal, according to Article 5.2 of the Town of Ogunquit Zoning Ordinance, within 30 days of the date of this letter.”

Mr. Wilkos confirmed that the Code Enforcement Officer took action against the Applicant. As a result, the Applicant is now before the Planning Board requesting Design Review amendments.

Ms. Bevins stated that the Applicant had an opportunity to negotiate with the OHPC and they did not negotiate.

Mr. Hayes asked why it has taken so long to come before the Board and ask for the changes. He noted that windows and doors generally have to be ordered eight to ten weeks before installation. He also noted structural changes to the front of the building where the double doors are located. He asked if the changes include moving that door so that they can install a four panel door. He asked if change will require moving the header over the doorway.

Mr. Wells responded that the original doors required the header to run the full width, thus the header will not change. The new doors will have six feet of operating parts and six feet of flanker panels for a total width of twelve feet.

Mr. Heyland asked if the original plan called for a pocket type sliding door, and the new doors open outward.

Doug Gains addressed the Board as the Applicant's builder. Mr. Gains stated that the headers for the windows and doors are one continuous LVL, there are no individual headers.

Mr. Hayes noted that the new windows and doors would have to have been ordered eight to ten weeks prior to installation, he asked if any structural changes had to be made to accommodate the new windows and doors.

Mr. Gains responded that the only change is in the returns, which allow the wall to be indented. The walls and LVL did not change.

Mr. Hayes again asked, if the windows were ordered eight to ten weeks ago, why it took so long to come before the Board.

Mr. Gains responded that Mr. Lapierre has been concerned about the windows and doors all along, and how they would impact the feel of the restaurant. When they went to Anderson Windows and Mr. Lapierre saw the new windows he wanted, they ordered them that same day.

Mr. Hayes stressed that it was a mistake, and that the windows have already been installed. He stated that the Board went through the correct process, the OHPC met with the Applicant back in 2015 and now the Applicant went ahead and made the changes which undermines all the work the Board did for the 2015 approval. This puts the Board in a very difficult position; and now the Applicant is asking the Board to approve the changes after the fact. He stressed that the Board may not approve the changes.

Mr. Gains apologized and stated that he understood.

Mr. MacLeod asked if the new front door opens out onto the sidewalk and if the fence now needs to extend out onto the sidewalk in front of the building.

Mr. Wells responded that according to the survey there is a two foot extension beyond the main line of the building. This is what he used as a guide.

Mr. MacLeod asked if the fence and the doors only extend out two feet from the face of the building.

Mr. Wells responded that this is correct, however there is a recess behind them.

Ms. Bevins asked how wide the new glass doors are.

Mr. Wells responded that they are three feet.

Ms. Bevins responded that three feet would open out more than two feet onto the sidewalk.

Mr. Gains explained that the doors are 30" panels and when the doors open they fold inside. He noted that the property line is a wedge shape. The end of the building near the beach is directly on the property line, however at the area closest to the river the space between the property line and the building is greater.

Mr. Heyland stated that the doors under discussion are not egress doors, when they are open it is strictly for ventilation; and the fence is needed to provide a barrier for people consuming alcohol and prevent them from walking off the property.

Mr. Heyland asked if the primary egress door, when fully opened, is completely on the Applicant's property. He noted that it is illegal for any of the doors to encroach onto the public way.

Mr. MacLeod noted that the Applicant did not provide a bird's eye view drawing, he asked for confirmation that the new building does not encroach out onto the public way.

Mr. Heyland responded that there is no encroachment of the building or the fence onto town property. He noted that the placement of the fence will be determined by field survey pins placed by the surveyor. He agreed that the door, when fully opened cannot encroach onto the public way.

Mr. MacLeod stressed that at the original approval there was a great deal of concern about making the new building look like the original. It is his memory that the original building was open to the street and there was no fence. It is his opinion that this is a negative change.

Mr. Hayes asked if the fence will be on the Applicant's property.

Mr. Heyland responded that the Ordinance requires all fences to be on the property line or slightly on the owner's property.

Mr. Gains stated that the fence will be set by a surveyor, and if it does encroach and the doors can't open, they will have to move them back a little.

Mr. Hayes again expressed his personal unhappiness with the way this has been done. As a builder he feels that the way this was done makes other builders look bad. He suggested the Applicant go back to the OHPC and negotiate some changes.

Mr. Gains responded that they met with the OHPC and had a 4 ½ hour meeting.

Mr. Hayes stated that he received the OHPC Memo less than 24 hours before this meeting which does not allow the Board members time to review the information.

Mr. Wilkos asked Newell Perkins, Chair of the OHPC, if he would be willing to review the OHPC Memo to the Board.

Ms. Freedman responded that she doesn't have the memo. Furthermore the Board's By-Laws are clear about what the Board will, and will not, accept at a meeting.

Ms. Bevins reminded the Chair that whatever they do they are setting precedent. It was her understanding that there was one issue, now she hears that there are several issues. Whatever the Board does will tell others that they can do whatever they want and come back for after the fact approval.

Mr. Wilkos asked if they should review the OHPC Memo.

Ms. Freedman responded that the Board's By-Laws say that the Board cannot accept this type of material if it isn't in their packets.

Mr. Wells stated that he only received the OHPC's Memo a few hours ago. He asked the Board to table this application so he will have time to meet with the Applicant and discuss any possible adjustments or compromises they might make.

Mr. Hayes agreed it would be a good idea to table. He noted that the OHPC holds an advisory position to the Planning Board and the Board may not go along with the OHPC's recommendations.

Ms. Bevins reminded everyone that the Applicant had the chance to negotiate with OHPC when they met on January 4, 2017.

Mr. Wilkos asked Mr. Wells if he is saying he would like to meet with OHPC again.

Mr. Wells responded that he would like to meet with the Applicant first. He needs time to review the OHPC memo and discuss it with the Applicant.

The Board unanimously agreed that they should have more time to review the OHPC's Memo.

Mr. Wilkos informed Mr. Wells that if he meets with the OHPC again, the Board will need to have the OHPC Memo from that meeting submitted to the Land Use Office in time to be included in the members' packets which go out to them one week before each meeting date.

Mr. Wells agreed, and confirmed that it would be up to the Applicant to contact OHPC.

Mr. Wilkos reminded the Applicant that the OHPC went out of their way to accommodate them.

Mr. Hayes Moved to Table the Application for BLUE WATER INN / LEONA M. LAPIERRE – 111 Beach Street – Map 7 Block 85 – Shoreland General 1 (SG1). Request to amend Design Review. Application to install window style different from that approved on November 8, 2015. HAYES/BEVINS

Mr. Wilkos asked if there was any discussion.

Ms. Bevins again noted that the Board may not approve OHPC recommendations or the changes which have been built.

Mr. MacLeod stated that the drawings don't show the proximity to the abutting building. He asked if there is adequate access to the HVAC units.

Mr. Heyland responded that he was on site with the Fire Chief; and there is adequate space.

Mr. Hayes asked if there is a current survey.

Mr. Heyland responded that there is a survey.

Mr. Hayes asked the Applicant to provide a new copy of the survey showing the location of the proposed fence.

Mr. Hayes Moved to Table the Application for BLUE WATER INN / LEONA M. LAPIERRE – 111 Beach Street – Map 7 Block 85 – Shoreland General 1 (SG1). Request to amend Design Review. Application to install window style different from that approved on November 8, 2015.

HAYES/BEVINS 5:0 UNANIMOUS

H. CODE ENFORCEMENT OFFICER BUSINESS –

Mr. Heyland informed the Board that he has been working on updating the Timber Harvesting Ordinance. He asked the Board to schedule two public hearings for changes. He noted the changes have been reviewed by the Forestry Service and they are ready to go.

The Board scheduled Public Hearings regarding changes to the Timber Harvesting Ordinance. The Public Hearings will take place on February 13th and February 27th.

I. OTHER BUSINESS –

Mr. Wilkos noted that the Board held several Workshops earlier this evening.

1. Discussion of Workshop Topics:

a) Determination of Failed Intersections in Ogunquit.

Mr. Wilkos noted that SMPDC contacted the State of Maine and the State may determine the status of failed intersections for the Town at no cost to the Town. The Board is waiting to hear back from SMPDC.

- b) Planning Board Requirements for Application Traffic Studies with Traffic Counts;**
- c) Zoning Ordinance restrictions for Outside Lighting;**
- d) Zoning Ordinance restrictions regarding Outside Sales.**

J. ADJOURNMENT -

Mr. Hayes Moved to Adjourn at 7:45 p.m.

HAYES/MACLEOD 5:0 UNANIMOUS

Respectfully Submitted

Maryann Stacy

Maryann Stacy

Town of Ogunquit

Recording Secretary

Approved on January 23, 2017