



Land Use Office
Post Office Box 875
Ogunquit, Maine 03907-0875

Tel: 207-646-9326
ceogt@townofogunquit.org

**OGUNQUIT PLANNING BOARD
PUBLIC HEARINGS and REGULAR BUSINESS MEETING
DUNAWAY CENTER MAIN AUDITORIUM
MONDAY AUGUST 28, 2017 AT 6:00 P.M.**

PUBLIC HEARINGS

1. An Ordinance to Amend Ogunquit Zoning Ordinance Article 7 Section 7.2.G Land Use Controls - Retail Marijuana Prohibition.

Mr. Wilkos reviewed the proposed ordinance language.

Mr. Heyland stated that the proposed ordinance does not effect the Marijuana Legalization Act; nor does it effect medical marijuana caregiver laws.

Mr. Wilkos asked if anyone wished to be heard on this matter. There being no one the Public Hearing was closed at 6:04 p.m.

2. Shoreland Zoning Standards (Section 9.15)

Mr. Heyland summarized that the proposed changes involve an update to the Shoreland Zoning Ordinance to meet the State's requirements. It will primarily effect expansion and vegetation removal in the Shoreland Zones. Other than that it is similar to the current ordinance.

Mr. Wilkos asked if anyone wished to be heard on this matter. There being no one the Public Hearing was closed at 6:06 p.m.

REGULAR BUSINESS MEETING

A. ROLL CALL –

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

Also Present: Scott Heyland, Code Enforcement Officer

B. PLEDGE OF ALLEGIANCE -

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

D. MINUTES – August 14, 2017

Mr. Hayes Moved to Accept the Minutes of the August 14, 2017 Meeting as Amended. HAYES/FREEDMAN 4:0 UNANIMOUS (Ms. Bevins and Mr. MacLeod were excused from that 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.

F. UNFINISHED BUSINESS –

G. NEW BUSINESS –

1. 10 BEACH PLUM LANE REALTY TRUST – 10 Beach Plum Lane (Map 9 Block 66B) Resource Protection Zone (RP). Building Permit Application for a post-1930 structure. Application to construct an addition to an existing structure.

Mr. Heyland explained that a single family home is a non-permitted use in the Resource Protection Zone. The Zoning Ordinance requires any expansion of non-conforming uses be approved by the Planning Board. In any other Shoreland Zone the Code Officer issues the building permit. Because this use is located in the Resource Protection Zone it requires a Planning Board review and approval.

Len Pierce, the applicant addressed the Board and summarized his application. He proposes putting on a porch addition. It will not expand the volume or floor area of the building by more than 30%. It will not encroach into the wetlands or setbacks.

Mr. MacLeod asked if this property is on septic or sewer.

Mr. Pierce responded that it is on public sewer.

Mr. MacLeod asked if Section 4.6 of the Ordinance applies to this application and if the ground floor area exceeds 1500 square feet.

Mr. Heyland responded that Section 4.6 does not apply to this application because it only applies to undeveloped lots.

Mr. Heyland reviewed his 8-23-2017 Memo to the Board:

“Project description

The owner of the property at 10 Beach Plumb Lane has presented for your review and approval,

a proposal to expand a non-conforming structure. The structure is a single family home which is located completely in the Resource Protection (RP) District. Per Table of Land Uses 702.1 of the Ogunquit Zoning Ordinance Land Uses Permitted in Zoning Districts - Single Family Dwellings are not permitted in the RP District. I have reviewed the application and submittal documents and find the application sufficient to make a determination. Article 3 regulates expansions of non-conforming uses.

3.2 Nonconforming Uses (Amended 11/4/08, Effective 4/1/09)

D. A Structure Nonconforming as to Use

Except for single family dwellings, a structure, nonconforming as to use shall not be enlarged unless the nonconforming use is terminated. Within any Shoreland Zone, non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 3.3.H.1 below.

The Planning Board is the reviewing Authority for the proposed project. Below are the standards which must be met:

3.3 Nonconforming Structures

H. Additional Requirements in any Shoreland Zone (Amended 11/4/08, Effective 4/1/09)

1. Expansions

No structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be extended toward the water body, tributary stream or wetland.

a. After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 3.3.H.3, and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.

b. The addition of a patio is considered the expansion of a nonconforming structure and a new patio or expansion of a patio may not expand the footprint of the structure, existing on January 1, 1989, by more than 30%.

c. The addition of steps or the enclosure of an existing porch is considered the expansion of a nonconforming structure and the addition or enclosure shall not expand the floor area or volume of the structure existing on January 1, 1989 by more than 30%.

d. Whenever a new, enlarged, or replacement foundation is constructed or placed beneath a structure which does not meet the setback requirements from a water body or a wetland, the structure and new foundation shall be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Section 3.3.H.2, Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section

3.3.H.1.a above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

The proposal does not include any extensions toward the wetland. The property file has shown that no expansion of this structure has been made after January 1, 1989. This application proposes to add 8.3% of the available 30% of floor area, no volume is being proposed. If the Planning Board finds that the above standards have been met, it shall make positive findings based on the following.

4.5. Permit Application (Amended 6/12/12, ATM)

E. Additional Criteria for Construction or Activities in Any Shoreland Zone

After the submission of a complete application to the required reviewing authority, no permit or approval shall be issued for any construction or activities within the Shoreland Zone unless the review authority makes a positive finding based on the information presented that the proposed use:

- (1) Will maintain safe and healthful conditions;*
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters;*
- (3) Will adequately provide for the disposal of all wastewater;*
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;*
- (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;*
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;*
- (7) Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;*
- (8) Will avoid problems associated with floodplain development and use.”*

Mr. MacLeod asked if a building without a roof constitutes volume.

Mr. Heyland responded that it has to be enclosed. He noted that this will be a roofed, not enclosed or screened-in.

Ms. Freedman asked who would be issuing the Building Permit.

Mr. Heyland responded that this is the first time the Board is seeing an application like this, and it would be the Planning Board that would issue the Building or Use Permit.

Mr. Pierce asked the Board to find the application complete.

Mr. Heyland responded that he recommends against that. If the Board visits the site and determines that it needs additional information they want to be in a position to ask for it.

Mr. Pierce reserved his right to that. He submitted everything he was required to submit, and he asked for a determination of completeness.

Mr. Heyland responded that there is no language which requires the Board to determine completeness at this stage. This is not a Site Plan Review, however it is up to the Board to make the decision.

Mr. Wilkos asked if abutters were notified.

Mr. Heyland responded that they were.

Mr. Pierce stated that he spoke to two abutters who both agreed to the project.

Mr. Wilkos asked if there are more than two abutters.

Mr. Heyland responded that there are.

Mr. Pierce noted that Section 4.5.E of the Zoning Ordinance refers to a "...complete application..."; and he asked for a determination of completeness.

Mr. Heyland responded that Mr. Pierce is correct, the Board does need to make a determination of application completeness it does not have to do it at this meeting, or they can make the completeness determination after a public hearing and/or site visit.

Mr. Pierce referred to Section 4.5.D which referred to the Code Enforcement Officer; and again asked for a determination of completeness.

Mr. Heyland agreed that there are holes in the ordinance in this matter. His fear is that the Board might be locked out of asking for additional information if it finds the Application complete at this meeting. He reiterated that the Board can make the determination tonight or at the next meeting.

Ms. Freedman asked why they aren't using Section 4.6.

Mr. Heyland responded that Section 4.6 applies to undeveloped lots; and this lot is already developed.

Ms. Freedman expressed her concern that the Board should conduct a site visit before finding the application complete. Her concern is that the Board might be prohibited from asking for additional information after a determination of completeness is made.

Mr. Pierce reviewed the drawings he submitted in his application packet.

Mr. Heyland suggested the Board could find the application complete at this meeting.

Mr. MacLeod Moved to find the permit application complete for 10 BEACH PLUM LANE REALTY TRUST – 10 Beach Plum Lane (Map 9 Block 66B) Resource Protection Zone (RP). Building Permit Application for a post-1930 structure. Application to construct an addition to an existing structure.

MACLEOD/FREEDMAN

Mr. Wilkos called for discussion. There being none he called for a vote.

Mr. MacLeod Moved to find the permit application complete for 10 BEACH PLUM LANE REALTY TRUST – 10 Beach Plum Lane (Map 9 Block 66B) Resource Protection Zone (RP). Building Permit Application for a post-1930 structure. Application to construct an addition to an existing structure.

MACLEOD/FREEDMAN 5:0 UNANIMOUS

The Board determined that both a Site Visit and a Public Hearing would be of benefit.

The Board scheduled a Site Visit to take place on September 11, 2017 at 3:00 p.m.

Mr. Hayes asked if the height of the addition could be flagged.

Mr. Pierce agreed to put up a post indicating the height.

The Board scheduled a Public Hearing to take place on September 11, 2017 at 6:00 p.m.

H. CODE ENFORCEMENT OFFICER BUSINESS – None

I. OTHER BUSINESS –

Discussion regarding Public Hearings to Amend the Ogunquit Zoning Ordinance.

1. An Ordinance to Amend Ogunquit Zoning Ordinance Article 7 Section 7.2.G Land Use Controls - Retail Marijuana Prohibition.

Mr. Wilkos noted that no one spoke at the Public Hearing.

Ms. Bevins Moved to Send An Ordinance to Amend Ogunquit Zoning Ordinance Article 7 Section 7.2.G Land Use Controls - Retail Marijuana Prohibition to the Select Board for inclusion on the warrant for the November 7, 2017 Special Town Meeting.
BEVINS/MACLEOD

Mr. Wilkos called for discussion. There being none he called for a vote.

Ms. Bevins Moved to Send An Ordinance to Amend Ogunquit Zoning Ordinance Article 7 Section 7.2.G Land Use Controls - Retail Marijuana Prohibition to the Select Board for inclusion on the warrant for the November 7, 2017 Special Town Meeting.
BEVINS/MACLEOD 5:0 UNANIMOUS

2. Shoreland Zoning Standards (Section 9.15).

Mr. Wilkos noted that no one spoke at the Public Hearing.

Mr. Hayes Moved to Send Shoreland Zoning Standards (Section 9.15) to the Select Board for inclusion on the warrant for the November 7, 2017 Special Town Meeting.
HAYES/MACLEOD

Mr. Heyland again summarized that the current Shoreland Zoning Ordinance is incorporated within the Zoning Ordinance. DEP Staff preferred to see a separate Shoreland Zoning Ordinance. The proposed document is language extracted from the existing Zoning Ordinance. There is also some additional language, particularly regarding expansion and vegetation removal.

He noted that the entire proposed Shoreland Zoning Ordinance is underlined because it will be a new document. He also noted that most of the language is currently found in Section 9.5 of the current Zoning Ordinance. He suggested that anyone with property in the Shoreland Zone come into the Land Use Office to discuss how the new ordinance will effect them.

Ms. Botsford asked if the proposed ordinance is more or less restrictive than the old.

Mr. Heyland responded that in the interest of protecting the Town they will be following the State Ordinance. It will be more restrictive in some areas; and less in others.

Ms. Freedman asked if it will effect anything in the Comprehensive Plan.

Mr. Heyland responded that it probably won't.

Mr. Hayes agreed that cleaning up the language will help save the Town from future lawsuits.

Mr. Wilkos called for any further discussion. There being none he called for a vote.

**Mr. Hayes Moved to Send Shoreland Zoning Standards (Section 9.15) to the Select Board for inclusion on the warrant for the November 7, 2017 Special Town Meeting.
HAYES/MACLEOD 5:0 UNANIMOUS**

J. ADJOURNMENT –

**Mr. Hayes Moved to Adjourn at 6:57 p.m.
HAYES/BEVINS 5:0 UNANIMOUS**

Respectfully Submitted
Maryann Stacy
Maryann Stacy
Ogunquit Planning Board
Recording Secretary

Approved on September 25, 2017