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**OGUNQUIT PLANNING BOARD  
PUBLIC HEARING and  
REGULAR BUSINESS MEETING  
MINUTES**

**DUNAWAY CENTER MAIN AUDITORIUM  
OCTOBER 23, 2017**

**PUBLIC HEARINGS**

- 1. ANN MCKEE – 632 MAIN STREET – Map 9 Block 80-81-4 – General Business District 2 (GBD2). Design Review for a pre-1930 structure. Application to remodel and repair: windows, siding, and roofing. Add a new front entry with roof, remove one front door and balance front window locations, add sliding door to rear of building, and change rear porch with two decks.**

Due to the Applicant's absence Mr. Wilkos tabled the Public Hearing. The Applicant arrived at 6:11 p.m. and Mr. Wilkos opened the Public Hearing at that time. He asked if there was anyone who wished to speak for or against this application. There being no one the Public Hearing was closed at 6:12 p.m.

**REGULAR BUSINESS MEETING**

**A. ROLL CALL –**

Members Present: Steve Wilkos (Chair)  
Muriel Freedman  
Jackie Bevins  
Mark MacLeod  
Priscilla Botsford (1<sup>st</sup> Alternate)

Members Excused: Rusty Hayes (Vice Chair)

Also Present: Scott Heyland, Code Enforcement Officer  
Planning Board Meeting – October 23, 2017

Lee Jay Feldman, SMPDC  
Maryann Stacy, Recording Secretary

**B. PLEDGE OF ALLEGIANCE -**

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

**D. MINUTES –**

➤ **July 10, 2017 Single Family Homes Workshop.**

**Mr. MacLeod Moved to Approve the Minutes of the July 10, 2017 Workshop as amended.  
MACLEOD/FREEDMAN 4:0 (Ms. Bevins was excused from that Workshop)**

➤ **September 25, 2017 Site Visit (Dunelawn).**

**Mr. MacLeod Moved to Approve the Minutes for the September 25, 2017 Site Visit as Amended.  
MACLEOD/FREEDMAN 4:0 (Ms. Bevins was excused from that Site Visit)**

➤ **September 25, 2017 A-Frame Signs Workshop.**

**Mr. MacLeod Moved to Approve the Minutes of the September 25, 2017 Minutes as Amended.  
MACLEOD/BEVINS 5:0 UNANIMOUS**

➤ **September 25, 2017 Public Hearings and Regular Business Meeting.**

**Mr. MacLeod Moved to Approve the Minutes for the September 25, 2017 Meeting as Amended.  
MACLEOD/BEVINS 5:0 UNANIMOUS**

➤ **October 2, 2017 Site Visit (Northern Union).**

**Ms. Freedman Moved to Accept the Minutes from the October 2, 2017 Site Visit as Submitted.  
FREEDMAN/BEVINS 4:0 (Mr. MacLeod was excused from that Site Visit).**

**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. ANN MCKEE – 632 MAIN STREET – Map 9 Block 80-81-4 – General Business District 2 (GBD2). Design Review for a pre-1930 structure. Application to remodel and repair: windows, siding, and roofing. Add a new front entry with roof, remove one front door and balance front window locations, add sliding door to rear of building, and change rear porch with two decks.**

Mr. Connell addressed the Board as Ms. McKee's representative. Mr. Connell confirmed that the proposal to change the rear porch with two decks has been removed from the project.

Mr. Wilkos summarized that the currently proposed project is different than the description of the project. It has changed as the project has moved through the review process.

Mr. Feldman responded that the question is; moving forward should the header (description) on the agenda or the application change as things evolve. His recommendation is that the agenda/application header not change. At no time was the original application approved, denied, or withdrawn which would have required the applicant to submit a new application. When the application is approved any changes must be noted in the Findings of Fact/Decision.

Mr. Wilkos reviewed the September 14, 2017 Ogunquit Historic Preservation Commission (OHPC) Memo to the Board; which included the following recommendations:

1. All new windows will be 2 over 1 double hung.
2. The siding shall be white cedar shingle, natural finish.
3. The West elevation to be built as drawn, with the addition ( if necessary) of a temporary freeze board running along the first floor level to separate the new first floor shingles from the older ones on the second floor level. The plans call for the residing of the entire side, either in the first phase or by the second phase of the project.
4. The North side shall have a set of look-a-like French doors on the right of the elevation, visible from Riverbank Road.
5. Shutters on the West or Main Street side of the building are to be replaced with an appropriate style similar to the existing ones currently on the building. The color to be determined by the applicant.

Mr. Wilkos reiterated that all five recommendations have been incorporated into the application and the Applicant has agreed to them.

Mr. Connell confirmed this.

Mr. Heyland reminded the Board that any approval will be for the most recent Plans; and the Board members will sign the plans. Mr. Heyland wrote the October 23, 2017 date on each of the seven pages of the most recently submitted plans.

At this time the Board reviewed the Design Review Standards as noted in Section Article 11.7.C of the Ogunquit Zoning Ordinance and found all standards to either be not applicable, or to have been met.

Mr. MacLeod Moved to Approve the Design Review Application for ANN MCKEE – 632 MAIN STREET – Map 9 Block 80-81-4 – General Business District 2 (GBD2). Design Review for a pre-1930 structure; with the following conditions:

1. All new windows will be 2 over 1 double hung.
2. The siding shall be white cedar shingle, natural finish.
3. The West elevation to be built as drawn, with the addition ( if necessary) of a temporary freeze board running along the first floor level to separate the new first floor shingles from the older ones on the second floor level. The plans call for the residing of the entire side, either in the first phase or by the second phase of the project.

4. The North side shall have a set of look-a-like French doors on the right of the elevation, visible from Riverbank Road.
5. Shutters on the West or Main Street side of the building are to be replaced with an appropriate style similar to the existing ones currently on the building. The color to be determined by the applicant.
6. approval is based upon the most currently received plans which are dated 10/23/17 and will be signed by the Planning Board members.
7. There will be no expansion.  
MacLeod/Bevins

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

**Mr. MacLeod Moved to Approve the Design Review Application for ANN MCKEE – 632 MAIN STREET – Map 9 Block 80-81-4 – General Business District 2 (GBD2). Design Review for a pre-1930 structure; with the following conditions:**

1. All new windows will be 2 over 1 double hung.
2. The siding shall be white cedar shingle, natural finish.
3. The West elevation to be built as drawn, with the addition ( if necessary) of a temporary freeze board running along the first floor level to separate the new first floor shingles from the older ones on the second floor level. The plans call for the residing of the entire side, either in the first phase or by the second phase of the project.
4. The North side shall have a set of look-a-like French doors on the right of the elevation, visible from Riverbank Road.
5. Shutters on the West or Main Street side of the building are to be replaced with an appropriate style similar to the existing ones currently on the building. The color to be determined by the applicant.
6. approval is based upon the most currently received plans which are dated 10/23/17 and will be signed by the Planning Board members.
7. There will be no expansion.  
**MACLEOD/BEVINS 5:0 UNANIMOUS**

2. **DUNELAWN CONDOMINIUM ASSOCIATION C/O BOB DIGENNARO – US Route One, Hoyts Lane, and River Road (Map 7 Block 79) General Business District 1 (GB1), Residential (R), and Shoreland Limited Residential (SLR). Design Review and Site Plan Review Application to reconstruct vehicle entrance off of US Route One, construct a vehicle and pedestrian gate, replace speed bump with speed table, add two (2) parking spaces, additional lighting and fences, and regrade drainage.**

John Lordan addressed the Board and summarized the changes which have been added to the plans since the last meeting:

1. He added the location and length of the proposed fence.
2. Note #7 on the Plan has been amended to include a 12' wide opening per the Fire Chief's comments

3. A note was added to indicate that the proposed fence would match the existing fence as much as possible.
4. A note was added that the fence installer will confirm that the fence will be located on the Dunelawn property.
5. The surveyor went out to the site and located all the trees along the property line. It was determined that one tree was closer to the proposed driveway expansion than was thought; and that tree will have to be removed. This tree is about 8” in diameter and he believes it to be a pine or spruce.

At this time the Board reviewed the Design Review Standards as noted in Section Article 11.7.C of the Ogunquit Zoning Ordinance and found all standards to either be not applicable, or to have been met.

At this time the Board reviewed the Site Plan Review Standards as outlined in Section 6.7 of the Ogunquit Zoning Ordinance and found all standards to either be not applicable, or to have been met.

Mr. MacLeod Moved to Approve the Design Review Application for DUNELAWN CONDOMINIUM ASSOCIATION C/O BOB DIGENNARO – US Route One, Hoyts Lane, and River Road (Map 7 Block 79) General Business District 1 (GB1), Residential (R), and Shoreland Limited Residential (SLR). Design Review and Site Plan Review Application.  
MACLEOD/BEVINS

Mr. Wilkos called for discussion. There being none he called for a vote on Mr. MacLeod’s Motion:

**Mr. MacLeod Moved to Approve the Design Review Application for DUNELAWN CONDOMINIUM ASSOCIATION C/O BOB DIGENNARO – US Route One, Hoyts Lane, and River Road (Map 7 Block 79) General Business District 1 (GB1), Residential (R), and Shoreland Limited Residential (SLR). Design Review and Site Plan Review Application.  
MACLEOD/BEVINS 5:0 UNANIMOUS**

Mr. MacLeod Moved to Approve the Site Plan Review Application for DUNELAWN CONDOMINIUM ASSOCIATION C/O BOB DIGENNARO – US Route One, Hoyts Lane, and River Road (Map 7 Block 79) General Business District 1 (GB1), Residential (R), and Shoreland Limited Residential (SLR). Design Review and Site Plan Review Application.  
MACLEOD/BEVINS

Mr. Wilkos called for discussion. There being none he called for a vote on Mr. MacLeod’s Motion:

**Mr. MacLeod Moved to Approve the Site Plan Review Application for DUNELAWN CONDOMINIUM ASSOCIATION C/O BOB DIGENNARO – US Route One, Hoyts Lane, and River Road (Map 7 Block 79) General Business District 1 (GB1), Residential (R), and Shoreland Limited Residential (SLR). Design Review and Site Plan Review Application.  
MACLEOD/BEVINS 5:0 UNANIMOUS**

**3. NORTHERN UNION / MATTHEW WICKERT – 261 Shore Road (Map 5 Block 15) Limited Business District (LBD). Site Plan and Design Review for a pre 1930 structure. Application to convert from a Type 1 Restaurant to a Type 2 Restaurant, and the addition of a gas fire pit and patio area.**

Mr. Wickert noted that he had submitted a few waiver requests as well as new lighting specifications.

Mr. MacLeod stated that he was unable to attend the October 2, 2017 Site Visit and he asked if he should recuse himself from voting on this application. He confirmed that he did attend all other meetings regarding this application and that he had reviewed the minutes from the October 2, 2017 Site visit. The Board determined that Mr. MacLeod did not need to recuse himself and the Applicant agreed.

Mr. Feldman reviewed his October 16, 2017 Memo to the Board (*a copy of which will be maintained in the Applicant's Planning Board file*).

Mr. Wilkos asked what evidence Mr. Feldman based his statement on that the Ledge Road parking spaces are in the Town's right-of-way.

Mr. Feldman responded that there doesn't appear to be an existing survey. He used the Town of Ogunquit's GIS Mapping System to produce an aerial photograph, which he distributed to the Board members and the Applicant. This photograph includes property boundary lines overlaid onto the photograph. The information is also based upon the Town's tax information. Based upon these things Mr. Feldman asserted that the Ledge Road parking spaces are in the Town's right-of-way.

Mr. Wilkos asked what Mr. Feldman recommended.

Mr. Feldman responded that a survey would be helpful; however it is up to the Board to decide how they want to deal with the whole parking question. The Board is not required to take any action. He suggested the Board review Article 12 of the Zoning Ordinance which requires a survey for several types of projects including Site Plan Reviews; however the Ordinance also allows the Board to waive the survey requirement, for Site Plan Review, upon the recommendation by the Town Planner or the Contract Planner which in this case is Mr. Heyland or Mr. Feldman. The Planning Board can still override the Planners' recommendation and determine that it needs the information from a survey to make a more educated decision.

Mr. Wilkos noted that when the application was originally submitted Mr. Heyland waived the survey.

Mr. Heyland responded that he did, and he reiterated that this does not prohibit the Board from requiring a survey. Mr. Heyland noted that he waived the survey because the Applicant made every attempt to locate a survey, also there was no request to add to the structure, and the existing conditions provided enough parking. At that early stage in the process he felt it would be a hardship to require the Applicant to provide a survey for property he does not currently own. He (Mr. Heyland) only recently learned that the Ledge Road parking spaces are located in the Town's right-of-way.

Mr. Feldman agreed that it was only recently determined that the entire Ledge Road Parking spaces are in the Town's right-of-way. He originally believed it might only be the rear end of the vehicles. Mr. Feldman added that the Board can either say: 1) the parking issue isn't really a big deal and let the Applicant continue to use the existing parking as is; or 2) the parking is a big deal and it needs to be addressed if the Applicant wants to expand the use of the business.

Mr. Wilkos stated that the only way to determine whether or not the parking spaces are on municipal land is with a survey.

Mr. Feldman responded "absolutely".

Mr. Wilkos asked the Board members if they wanted a survey:

Ms. Bevins responded Yes.

Mr. MacLeod responded Yes; He also asked: if the Board approves the application as is, would it affect the Town's future rights to the right-of-way?

Mr. Feldman responded that this is a question for the Town Attorney. This may be an issue of Vested Rights or Adverse Possession.

Ms. Freedman responded that she didn't see any need for a survey at this point.

Ms. Botsford responded Yes; because it is a combination of public and private land.

Mr. Wilkos summarized that the Board has determined 4:1 that the Applicant needs to provide a survey.

Mr. Wickert responded that because he intends to purchase the property he is already in the process of obtaining a survey. However, he was unable to get the work done in time for this meeting.

Mr. Wilkos informed the public and the Board that Mr. Hayes (who was excused from this meeting) provided the Applicant with the name of a local surveyor. This was done innocently and had he been at this meeting Mr. Hayes would have disclosed it.

Mr. MacLeod Moved to Table this Application pending submission of a survey.  
MACLEOD/BEVINS

Mr. Wilkos asked if there was any further discussion.

Mr. MacLeod referred to Code Section 8.10.A.1.b:

"In all Districts, except the Downtown Business, SG1 and SG2, no structure or use shall be constructed, extended or enlarged, unless off-street automobile parking space is provided in accordance with the following requirements:

b. Parking areas with more than four parking spaces shall be arranged so that it is

not necessary for vehicles to back into the street.”

Mr. MacLeod suggested that under this ordinance the Board does not have the authority to waive that requirement. The only alternative he sees possible is to waive the additional parking requirements and not touch parking at all; which leaves the existing parking layout grandfathered.

Mr. Feldman agreed and added that the corrective action might be putting the parking out back; and having one way vehicle circulation through the property. Mr. Feldman agreed that this would be logistically difficult and expensive for the Applicant; however cost is not for the Board to consider. Mr. Feldman noted that without having a survey there appears to be no reason the Applicant can't do that; however there may be other considerations such as topography, setbacks, etc. This is why he noted that the Board may do nothing with regard to the parking.

Mr. MacLeod stated that if the Board doesn't waive the parking then it must consider whether or not the parking meets the Ordinance standards, which it does not.

Mr. Feldman stated that the Board might approve the application with the condition that the Applicant put the parking out back, if there is room to do so. Mr. Feldman stated that if the Application is denied the Applicant could continue to operate his business as he always has, however he would remain a Type 1 Restaurant and not become a Type 2.

Ms. Botsford asked if the Board can waive the parking requirements.

Mr. Feldman responded that the Board cannot waive that particular standard.

Mr. MacLeod referred to Sections 8.10.D.8.a and c of the Zoning Ordinance:

“Except for transient accommodations and residential uses, the Planning Board may reduce the requirements of this Section for the number of parking spaces, where it is shown that the application meets one or more of the following standards:

- a. appropriate parking and loading spaces will be maintained sufficiently for the intended use, based on the availability of public transit, which can reasonably be expected to be utilized by sufficient numbers of customers or patrons of the use, to justify the waiver request;
- c. appropriate parking and loading spaces will be maintained sufficiently for the intended use, based on the availability of adequate and safe pedestrian facilities and crosswalks, which can reasonably be expected to be utilized by sufficient numbers of customers or patrons of the use, to justify the waiver request;...”

Mr. MacLeod suggested that the parking requirement might be waived under these sections of the Ordinance.

Mr. Feldman agreed and added that the Applicant has already referenced how many patrons arrive at the restaurant by foot and trolley, or means other than by car.

Mr. Heyland added that the Board doesn't even get there because the Ordinance says that in any expansion parking has to meet the following... The Board doesn't get into reducing the number of spaces, parking must meet the current ordinance if the Applicant wants to expand.

Ms. Bevins expressed her concern that the Board is going to the extreme. This restaurant has always used this parking layout.

Mr. Heyland responded that with the request for an expansion from Type 1 to Type 2 the parking requirements are reviewed.

Mr. MacLeod summarized that if the Applicant can't meet the parking requirements and the application is denied, he may continue to operate as a Type 1 Restaurant with his current parking layout, however he cannot operate as a Type 2 Restaurant with outdoor service.

Mr. Feldman referred to Section 8.10.B.1:

“Parking Lot Layout

1. In its review of parking lot layouts, the reviewing authority shall consult with the Road Commissioner and shall consider the following:
  - a. Sight distances along the public right-of-way;
  - b. Aesthetic and visual sighting from the public right-of-way;
  - c. Effects on adjacent public access points;
  - d. Overall traffic safety considerations;
  - e. Traffic signalization requirement;
  - f. Movement of vehicles related to use of the facility...”

Mr. Feldman noted that several of these standards relate to safety issues and how vehicles operate and move around the property. The question is “can corrective action be taken?”.

Mr. Heyland noted that the Road Commissioner is the Town Manager.

Mr. Wilkos asked; when the survey comes in, what can the Applicant do to obtain approval for expansion to a Type 2 Restaurant?

Mr. Feldman responded that he can reconfigure the parking on site, if possible.

Ms. Botsford asked if the Applicant has to deal with the Real Estate Office parking space.

Mr. Heyland responded that the Board can allow for joint use of a parking space.

Mr. Wilkos asked what standards there are that the Applicant has to meet in order to get approval for his parking.

Mr. Feldman responded that the Applicant would need to meet, and the Board will review parking plans, for Sections 8.10.A and 8.10.B.

Mr. Heyland added that the setbacks for this property are fifteen feet (15') for the rear and sides, and twenty feet (20') in the front. It will require a survey to determine whether or not this

standard can be met.

Mr. Wilkos asked how many parking spaces the Applicant needs to have.

Mr. Heyland responded that the Applicant needs two for the residential unit, one space to be shared between the restaurant and the real estate office, and 12 for the proposed Type 2 Restaurant.

Mr. Wilkos asked if some of the parking spaces could be waived.

Mr. Heyland responded that this may be the only way to make this work. Some of the existing spaces may already be compliant to the Ordinance and some would need to be waived. The important thing for the Board to remember is, even if it waives all the parking spaces down to one parking space; that one space has to meet all the standards in Section 8.10.A.

Mr. Feldman suggested that if there is a reasonable number of waived parking spaces requested the Board could grant the application based upon the information the Applicant provides regarding the number of patrons who arrive by means other than a vehicle, how they arrive, locations of nearby trolley stops etc.

Mr. Feldman suggested that the Applicant obtain his survey, then meet with the Code Enforcement Officer and Mr. Feldman to review the property and the options which would meet the Ordinance standards.

Ms. Freedman asked if valet parking would make a difference.

Mr. MacLeod noted that it wouldn't remove the requirements under Section 8.10.A. He also reiterated that the Board does not have the authority to waive Standards 8.10.A and 8.10.B.

Mr. Feldman again noted that the Applicant may request a waiver for a number of parking spaces; but he cannot request a waiver from the standards of design; and this is not appealable to the Zoning Board of Appeals unless he felt there was an interpretation problem.

Mr. Wickert noted that he has two pending reviews: Site Plan and Design Review. He asked if the Board would move forward with the design review specific to the fire pit and hold off on the Site Plan Review.

Mr. Feldman responded that he would suggest no. Once the Board takes that type of action it may appear as if the Board is going to take that type of positive action on the whole application.

Mr. Wilkos noted that in the past the Board has reviewed both at the same time.

Mr. MacLeod Moved to Table the Design Review and Site Plan Review for NORTHERN UNION / MATTHEW WICKERT – 261 Shore Road (Map 5 Block 15) Limited Business District (LBD).  
MACLEOD/BEVINS

Mr. Wilkos asked if there was any further discussion. There being none he called for a vote on

Mr. MacLeod's Motion:

**Mr. MacLeod Moved to Table the Design Review and Site Plan Review for NORTHERN UNION / MATTHEW WICKERT – 261 Shore Road (Map 5 Block 15) Limited Business District (LBD).**

**MACLEOD/BEVINS 5:0 UNANIMOUS**

**G. NEW BUSINESS –**

Mr. Wilkos noted that there was no new business.

**H. CODE ENFORCEMENT OFFICER BUSINESS –**

Mr. Heyland noted that there was no Code Enforcement Officer business.

**I. OTHER BUSINESS –**

**1. Discussion of Fire Pit Workshop.**

Mr. Wilkos reminded everyone that the Board held a Workshop earlier in the evening. The resulting actions were:

The Code Enforcement Office will mail notification to rental property owners regarding proper protocol and safety with regard to maintaining fire pits.

The Town will put information on the Town Website and Channel 3 informing the public that the Fire Department will be responsible for handling complaints. If a complaint is made the Fire Department will go out and make a determination as to whether or not there is a nuisance. If the Fire Department determines that there is a nuisance fire they will extinguish the fire.

Mr. Wilkos asked that the Select Board be notified.

Ms. Bevins reiterated her belief that requiring applicants to provide a survey is very important.

Mr. MacLeod asked about the status of the past workshops.

Mr. Heyland responded that the A-Frame Sign language will be developed, this language will be distributed to the Board for review.

Regarding the Single Family Home Rentals there wasn't much change. The Town will continue requiring business registration and will also disseminate safety standards for single family rentals. It was also determined that the registration form currently in use would continued to be used.

Mr. MacLeod noted that the next workshop, regarding After The Fact Permits and Applications will take place on November 13<sup>th</sup>.

Mr. Heyland agreed to obtain input from the Town Planner regarding after the fact applications.

**J. ADJOURNMENT –**

**Mr. MacLeod Moved to Adjourn at 7:45 p.m.  
MACLEOD/FREEDMAN 5:0 UNANIMOUS**

Respectfully Submitted

*Maryann Stacy*

Maryann Stacy

Town of Ogunquit

Planning Board Recording Secretary

At the end of the meeting the Planning Board members signed the approved plans for the Dunelawn and McKee Applications. These plans, comments, and discussions held during meetings and Hearings are the basis for approvals.

*Approved on November 13, 2017*