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**OGUNQUIT PLANNING BOARD
REGULAR BUSINESS MEETING
MINUTES**

**DUNAWAY CENTER MAIN AUDITORIUM
DECEMBER 11, 2017**

REGULAR BUSINESS MEETING

A. ROLL CALL –

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

Members Excused: Steve Wilkos (Chair)

Also Present: Scott Heyland, Code Enforcement Officer
Lee Jay Feldman, SMPDC

Mr. Hayes noted that due to Mr. Wilkos' excused absence Ms. Botsford would be moved to full voting position for the duration of this meeting.

B. PLEDGE OF ALLEGIANCE -

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

D. MINUTES –

- 1. ~~November 27, 2017 Regular Business Meeting.~~
UNAVAILABLE AT THIS TIME**

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

Mr. Hayes 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. Renata Moon LLC / Michele Tourangeau – 433 Main Street – Map 14 Block 16 - GBD2. Site Plan and Design Review Application for a pre 1931 structure. Application to construct a new 26’x36’ structure attached to existing garage / carriage house. Reduction of guest rooms to nine (9).**

Ms. Tourangeau provided a brief summary of the proposed project.

Mr. Feldman reviewed his Supplemental Memo to the Board, dated December 19, 2017 wherein he stated that:

“I have had the opportunity to review the most recent plan submitted by the applicant as it relates to the placement of pervious pavement on the property. It is my recollection, at the last meeting that the applicant was proposing to use pervious pavement to get under the 5% increase in impervious area in order to not have to do a stormwater management plan. If this is the case, the applicant has a good start but by revising the plan as they have done. I did indicate as I recall, that we would need a detail of how the base material would be constructed. You cannot just put down pervious material and expect it to work. The sub base material is vital to its ability to absorb water. The applicant still needs to provide a detail on sub base material. This design should also be stamped by a civil engineer to assure that it will work correctly. I have also noticed that the plan was revised to eliminate the swale to the north of the property. I am assuming the applicant feels this swale is no longer needed. During the meeting we discussed the need to show a detail of the swale and possibly lining it with a crushed stone to slow the flow of water from the site. You may want to ask the applicant what they are proposing here as well.”

The Board reviewed the Site Plan Review Submissions Checklist. It was noted that:

Item G was determined to be incomplete until the Board receives confirmation that the 1” water line will be sufficient to handle the required sprinkler system(s).

Item H, regarding the 2’ Contour Map, was also found to be unsatisfied at the last meeting.

Item Y, regarding the Stormwater Management Plan, was also determined to be unsatisfied at the last meeting.

Ms. Tourangeau explained that her contractor, Mr. Charpentier was unable to attend this meeting. She explained that while she did have a digital plan, she did not have paper copies of the pervious pavement information. She explained that the aggregate used is called a reservoir.

Mr. Feldman responded that the Board needs to have the information in paper format as part of the record.

Ms. Tourangeau stated that the new plan incorrectly indicates the removal of the existing swale. This was a mistake. The swale will remain in place; and will be so indicated on the updated plans.

Mr. Charpentier arrived at the meeting at this point.

Mr. Charpentier informed the Board that by using the pervious paving material the impervious surface calculations come in under 5%.

Mr. Hayes asked about the Board's request to have the location of the water line indicated on the revised plan.

Mr. Charpentier responded that he will have to work with the Code Enforcement Officer on that. They know there is water at the inn, and they know where it comes in from the street, they just don't know where the trench will be located. He noted that he can run the trench anywhere and it won't have an impact on the lot.

Mr. Charpentier noted that he had submitted the plans to Eastern Fire Protection and has not heard back from them regarding the water line size. Mr. Charpentier agreed that he will go over all of this with the Code Enforcement Officer.

Mr. Hayes responded that these are things the Board wants to see on the final plan. He added that the Board also wants to see a notation on the final plan that indicates a maximum of nine guest rooms on the property.

Ms. Tourangeau agreed.

Mr. Feldman suggested adding a 14th notation on the plan indicating conditions of approval, for the record.

Mr. Heyland suggested the Board should either grant the waivers or require the submission of the information. If the Board grants the waivers they can find the application complete; if they want the submissions the application has to be tabled until the information is submitted and found satisfactory. At that time the Board can find the application complete.

Mr. Feldman asked Mr. Charpentier if he is clear about the information the Board wants.

Mr. Charpentier responded that he is.

Mr. Feldman stated that if the Board is going to allow the pervious pavement they may waive the submission of the Topo, because the pervious pavement will be allowing water to penetrate and the Board doesn't need to worry about where the water is going. The only surface water movement will be from the existing central pavement.

Mr. MacLeod Moved to grant a waiver for Site Plan Review Submission Requirement Item 6.6.C.3.H Existing and Proposed: Two Foot Contours.
MACLEOD/FREEDMAN

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

**Mr. MacLeod Moved to grant a waiver for Site Plan Review Submission Requirement Item 6.6.C.3.H Existing and Proposed: Two Foot Contours.
MACLEOD/FREEDMAN 5:0 UNANIMOUS**

Mr. Feldman reminded the Board that the Applicant still needs to provide a detailed design of the pervious pavement plan, and that the Stormwater Management Plan should not be waived at this time.

Mr. Charpentier stated that the pervious pavement base is a six inch aggregate reservoir system that catches the water and disburses it. It is a very simple design. It is not anywhere as complex as the use of impervious pavement.

Mr. Hayes responded that the Board wants that information on the plan, and that the plan be stamped by an engineer certifying that it is going to work.

Mr. MacLeod added that the Board also wants confirmation on the plan that the incoming water line will be sufficient for the sprinklers; and where the line(s) will be located.

Mr. MacLeod Moved to Table the Application for Renata Moon LLC / Michele Tourangeau – 433 Main Street – Map 14 Block 16 - GBD2. Site Plan and Design Review Application pending submission of a Stormwater Management Plan which contains a certified engineers’ stamp confirming the adequacy of the plan. And confirmation on the plan that the incoming water line will be sufficient for the sprinklers; and where the line will be located.
MACLEOD/BOTSFORD

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

**Mr. MacLeod Moved to Table the Application for Renata Moon LLC / Michele Tourangeau – 433 Main Street – Map 14 Block 16 - GBD2. Site Plan and Design Review Application pending submission of a Stormwater Management Plan which contains an certified engineers stamp confirming the adequacy of the plan. And confirmation on the plan that the incoming water line will be sufficient for the sprinklers and where the line will be located.
MACLEOD/BOTSFORD 5:0 UNANIMOUS**

G. NEW BUSINESS –

- 1. Judith Dennis / Bandito’s Mexican Grill – 68 Shore Road – Map 6 Block 69 – GBD1 - Site Plan Review for a post 1930 structure. Site Plan Review – Application to expand use from 49 (25 indoor and 24 outdoor) seats to 55 (25 indoor and 30 outdoor) seats.**

Ms. Dennis informed the Board that at the moment she does not have enough bathrooms to have fifty-five seats so they are taking an existing bathroom and putting a door into Banditos so they will have three bathrooms instead of two bathrooms; which will allow them to have more seating.

Mr. Heyland summarized his November 30, 2017 Memo to the Board wherein he stated that:

“Project description

Judith Dennis, owner of Bandito’s Mexican Grill is requesting an expansion of use under the Site Plan review process (OZO 6.6.B.2). The property is currently approved as a Type 3 Restaurant. The request is to add additional seating to an existing outdoor patio area. No exterior modifications to the property are proposed.

At the Planning Board meeting of July 29, 2013 after a Public Hearing the Board approved the application which included 25 indoor seats and 24 seats located outside along the right side of the building.

The approval specifically stated “The Adirondack chairs in front of the building are not considered to be part of this application and are not to be used for service of food or beverages”.

This application is to remove this restriction and allow the serving of food and beverages at the existing seating in the front patio area.

The seating layout included with this application indicates 28 seats inside and 20 seats located outside. The site plan indicates 6 boxes which could be assumed to be proposed seating.

The property is located in the General Business District -1 Zoning District

Article 6- Planning Board

6.6 Procedures for Site Plan review:

All fees have been paid by the applicant.

Notifications have been made to all Departments.

Per (OZO 6.6.C.4) All applicable application submissions requirements have been submitted and reviewed and those that have been determined by the Code Enforcement Officer to be inapplicable have been indicated on the checklist and in a separate memo.

The Planning Board shall hold a public hearing on the site plan review application within 30 days of determining the application is complete.

The Board does have the option of scheduling a site visit if it feels necessary.

Review Standards

7.2 Land Use Controls

All permitted uses, regardless of the reviewing authority, shall conform to the performance standards of Articles 8 and 9 of this Ordinance as applicable. No new permitted use shall be commenced, nor shall any existing use be changed to a different permitted use, until a permit or approval is received from the proper reviewing authority, according to Table 702.1.

Restaurant Type 3 is an allowed use in the General Business 1 District

The following are applicable Performance Standards. There may be other Standards which require review.

8.7 Lighting

There is no indication of any additional lighting on the plan the Board should discuss this with

the applicant.

8.9 Noise abatement

The current approval for this property includes a limit on outdoor activity to “a 10pm cut off time for outside service of food and/or beverages and a 10 pm cut off time for music of any type, also all patrons must have vacated the outside tables by 11 pm”.

Although the applicant is not requesting to expand these hours, the condition states tables. This proposal is for the use of chairs. The Board may want to clarify the conditions.

8.10 Off Street Parking and Loading

Type 3 Restaurants located in the General Business 1 District require 1 parking space for every 100 square feet of floor area.

Past SPR approvals have included a waiver of the Parking requirements as there is no onsite parking provided.

The additional seating area is proposed to be 7’x14’ requiring one additional parking space.

The Board will need to reconfirm its position on the parking requirements.

Per OZO 8.10.D.8

The Planning Board may reduce the requirements of this Section for the number of parking spaces.

The Planning Board may require additional information be provided by the applicant in support of any request for a waiver of parking requirements.

8.13 Traffic Impacts and street Access Control

The applicant has asked the Board for a waiver of this submission requirement per OZO 6.6.C.4.

The requested waivers are found in T & U on the Submissions Checklist.

The Board should review the Waiver of Submission Requirement Request Form.

8.16 Dumpsters, Trash Containers, and Recyclables Containers - Setbacks & Screening

Trash containers, recyclables containers and dumpsters shall be located within a cabinet or screened so as not to be visible from a public way or from the ordinary eye level of an individual standing on the ground from abutting residential property or transient accommodations.

The Board may want to confirm with the applicant this standard is met.

9.13 Restaurants

Restroom facilities for the patrons shall be provided on the premises.”

At this time the Board reviewed the Site Plan Submission Checklist.

Regarding Submission Requirement Item 6.6.C.3.A ... site plan (at least 1”=20’) ... Mr. MacLeod noted that the submitted Site Plan does not meet the required scale.

Regarding Submission Requirement Item 6.6.C.3.F... Mr. MacLeod noted that the submission was hand drawn and appears to be incorrect in that the seats as indicated on the hand drawing do not match the numbers on the application.

Regarding Submission Requirement Item 6.6.C.3.T and Item 6.6.C.3.U the Applicant has requested waivers of these items.

Mr. Macleod Moved to Approve a Waiver for Site Plan Review Submission Item 6.6.C.3.T.
MACLEOD/BEVINS

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

**Mr. Macleod Moved to Approve a Waiver for Site Plan Review Submission Item 6.6.C.3.T.
MACLEOD/BEVINS 5:0 UNANIMOUS**

Mr. Macleod Moved to Approve a Waiver for Site Plan Review Submission Item 6.6.C.3.U.
MACLEOD/FREEDMAN

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

**Mr. Macleod Moved to Approve a Waiver for Site Plan Review Submission Item 6.6.C.3.U.
MACLEOD/FREEDMAN 5:0 UNANIMOUS**

The Board found all other submission requirements to either have been submitted or appropriately determined to be not applicable by the Code Enforcement Officer.

Mr. MacLeod asked for discussion regarding the adequacy of the Site Plan with 1"=20' scale. He noted that the two submitted plans are not to scale; and there are no measurements on the buildings.

Ms. Freedman noted that the date on the site plan is 2010.

Mr. Heyland added that the scale on the survey is correct; however the scale for the serving and outdoor patio area is not indicated on the plan.

Mr. MacLeod added that the seating numbers on the hand drawn plan do not match what is requested. The application requests 25 indoor and 24 outdoor; and the drawing shows 20 indoor and 28 outdoor.

Mr. MacLeod stated that while Items 6.6.C.3.A and 6.6.C.3.F were submitted; it is his opinion that they are insufficient for the Board to make a determination on the application.

Mr. Hayes explained to the Applicant that the drawings need to meet the required scale and the number of seats and their locations need to be specific and match the application.

Mr. Heyland asked how many Adirondack chairs the Applicant intends to use for service.

Ms. Dennis responded "the six that are out there". She added that people are allowed to come into the restaurant, order and pay for their food, and take it out to the Adirondack chairs to eat. The chairs are being used now, she is asking for permission to serve patrons seated there instead of having to use them as take-out seating.

Ms. Dennis added that the reason they couldn't do this before was because they didn't have

enough bathrooms, now they will.

Mr. MacLeod noted that the Site Plan dated 2010 does not show the new bathroom.

Ms. Dennis responded that it isn't a new bathroom, it already exists. However she agreed to amend the Site Plan to include the location of the bathroom.

Mr. MacLeod suggested the Board Table the Application for Judith Dennis / Bandito's Mexican Grill – 68 Shore Road – Map 6 Block 69 – GBD1 - Site Plan Review pending submission of an updated Site Plan with accurate scale, seating layout and numbers, location of bathrooms, and dimensions of the patio.

Mr. MacLeod added that the Board will need a waiver request for one parking space to satisfy Submission Item 6.6.C.3.X.

Ms. Bevins asked if there is parking there now.

Mr. MacLeod responded that there is not. The parking was waived in the past.

Mr. Heyland explained that as part of the parking space waiver request under Item 6.6.C.3.X Ms. Dennis will have to clearly explain why she feels she does not need the parking space. The reason might be the proximity of public parking, a trolley stop, etc.

Mr. MacLeod Moved to Table the Application pending the submission of an updated Site Plan which is to 1"=20' scale and indicates the location of seating, patio, bathrooms; and that the applicant submit a waiver request for Submission Item 6.6.C.3.X as required by the Ordinance.
MACLEOD/BOTSFORD

Ms. Bevins asked if there were any police reports for the past summer. She noted that the last time this applicant came before the Board there was an issue about noise.

Ms. Freedman asked if there is a fire pit on site.

Ms. Dennis responded that there is.

Mr. Hayes added that the Board is only determining completeness at this point. Once the application has been determined to be complete the Board may discuss all these things, schedule a site visit, and public hearing.

There being no further discussion Mr. Hayes called for a vote on Mr. MacLeod's Motion:

Mr. MacLeod Moved to Table the Application pending the submission of an updated Site Plan which is 1"=20' scale and indicates the location of seating, patio, and bathrooms; and that the applicant submit a waiver request for Submission Item 6.6.C.3.X as required by the Ordinance.

MACLEOD/BOTSFORD 5:0 UNANIMOUS

H. **CODE ENFORCEMENT OFFICER BUSINESS** – None

I. **OTHER BUSINESS** – None

J. **ADJOURNMENT** –

**Ms. Freedman Moved to Adjourn AT 6:50 p.m.
FREEDMAN/HAYES 5:0 UNANIMOUS**

Respectfully Submitted

Maryann L. Stacy

Maryann Stacy
Town of Ogunquit
Planning Board
Recording Secretary

Approved on January 22, 2018