



Mr. Heyland pointed out that later this evening the Board would be holding a Public Hearing on the proposed changes.

Regarding the proposed changes to the planning board building permit response time, Mr. Heyland added that the changes are an attempt to close a currently open ended response time.

Ms. Freedman added that this also provides the Board with thirty-five days to respond to an application.

The question was raised as to whether it should be thirty or thirty-five days.

Mr. Heyland responded that he chose thirty-five days because that is what the State used in its ordinance. However there are other instances in the Ogunquit Ordinance which refer to thirty days. The Board members agreed that, for consistency, they would prefer to go with thirty days.

Regarding the permit expiration timeframe, Jerry DeHart noted that the short permitting timeframe is a problem. After going through the Planning Board process and obtaining a building permit it usually ends up being spring or summer before building begins. Given that Ogunquit is a summer resort community, and to be a good neighbor, people don't want construction during the summer. He asked for a longer period before permits expire so that construction start times may be more flexible.

Mr. Heyland agreed with Mr. DeHart's comments. He noted that builders may request an extension if the six month period expires before they begin construction. He noted that the six month time frame comes from the State Building Code. He also asked if it was wise to have different building deadlines for different zones.

Mr. DeHart responded that it isn't a State Statute and the Town may expand the six month building timeframe. He noted that other towns have different timeframes to begin construction.

Mr. Heyland suggested that the Town may not be able to amend the State Code; he agreed to look into the question.

Regarding Table 702.1 Single Family Homes in the Stream Protection District and Footnote #12, it was agreed that discussion would take place at the end of the workshop.

Mr. Heyland pointed out those areas of town where he has suggested minimum lot size be increased from 40,000 to 60,000 square feet are in the Shoreland District. He pointed out that non-shoreland zones are already at 60,000 square feet. Currently the density is tighter for non-shoreland zones than in shoreland zones. The changes would expand the density in the shoreland zones leaving them less developed. He suggested that this is consistent with discussions the Comprehensive Plan Committee has been having.

Mr. Heyland acknowledged that this change would effect many lots.

Mr. Heyland reviewed several other changes to the Ordinance regarding removal and replanting of vegetation in the Shoreland Zone.

Regarding the wording of “Planning Board or its Designee”. Mr. Feldman suggested that by keeping the language somewhat ambiguous it allows the Board the flexibility to ask for review by entities other than the Code Enforcement Officer.

Regarding the deadline timeframe for commencement of construction, Mr. DeHart asked what the problem would be with a one year permit time frame. He noted that applicants run the risk of having a request for an extension denied.

Mr. Heyland agreed that he has no problem with a one year permit time frame. However he does want to confirm that it would line up with the State Building Code.

At this point the Board reviewed the proposed changes to Table 702.1 Single Family Homes in the Shoreland Zone, and the associated Footnote #12.

Mr. Heyland noted that several years ago the Town extended the stream protection designation to a section of the Leavitt Stream which had not been designated as protected. The Town adopted a new map which included the protection of that specific section of the stream. Table 702.1 indicated that construction of single family homes in the Stream Protection District was “Not Permitted”. The State of Maine Model Ordinance suggested that people who own lots in the Stream Protection Area should have some relief from this restriction in the form of the ability to request a variance from the Zoning Board of Appeals and a review by the Planning Board.

Mr. Heyland informed the Board that he spoke with the Town Attorney who recommended separating this particular question out of all the other changes to be presented to the voter; and present it as a standalone warrant article.

He noted that the Board had been provided a copy of the Town Attorney’s memo.

Peter Kahn read a statement from Susan Lally of 53 Old King’s Highway who opposed any changes to this ordinance.

Bob Young addressed the Board as the developer of Windward. He noted that the subdivision approval process took over three years. He kept two lots for himself. Mr. Young noted that he walked the area under discussion, which was approved as a storm water runoff, several times with the DEP.

He has been told that he may not make changes to his approved Planning Board Subdivision Plans, and it seems to him as if the Town is now trying to make changes to that approved plan. He has a buyer for one of the two lots which has been assessed at \$284,000 for many years; and which he has been paying taxes on at that rate.

Mr. Young suggested that the changes take away his retirement. He reiterated that he has all the approvals from the DEP, the Town, and State. He has walked that stretch of the “stream” four or five times with several members of the DEP and it was always determined to be a storm water runoff.

Mr. Heyland responded that the proposed changes would allow a property owner in stream protection to go to the Zoning Board and request a variance to develop the lot. If the variance is granted the property owner would then have to go before the Planning Board for an extensive review before any permit was

granted to develop. If the proposed changes are not approved by the voters then Mr. Young's lots may not be developed and he has no ability to appeal.

Mr. Young responded that he doesn't understand why they aren't grandfathered lots, and why he can't build on them. The Town can't take away his property without some sort of compensation. He noted that the approved plans include the building envelope, abiding by the setbacks etc. He suggested the Town could purchase the land from him however the potential buyer wants to build his home there. Mr. Young has seen the design plans and it's a very nice house. He asked the Board to declare his lots grandfathered.

Mr. Wilkos asked if under the current ordinance, these two lots may be built on.

Mr. Heyland responded that they may not. In 2015 the Town voted to extend the stream protection area to that section of the Leavitt which was previously not designated as "a stream" in "stream protection". He added that the non-conforming clause in the Ordinance allows for an existing use to continue if the ordinance changes and prohibits that use. These are undeveloped lots; and he (Mr. Heyland) has to apply the current ordinance. He noted that properties are effected by changes to the Zoning Ordinance all the time.

Mr. Wilkos summarized that the proposed changes allow Mr. Young to go before the Zoning Board for a variance to develop. At this time Mr. Young doesn't have the ability to appeal the denial of a building permit.

Mr. Young stated that he didn't know about the vote in 2014; and he doesn't understand why an approved subdivision is no longer approved. The DEP walked that area several times and determined that section of the "stream" to be a stormwater runoff, and there are no setbacks to stormwater runoffs.

Mr. Young confirmed that there are two lots which he is now being told are unbuildable.

Ms. Freedman asked if there hadn't been a requirement for water testing in that area.

Mr. Young responded that there was, and it was determined that there were no problems. He even installed filtration systems which left the water coming off his site cleaner than it was when it came onto the site.

Mr. Young asked the Board if they can determine his lots to be grandfathered.

Mr. Wilkos responded that they cannot.

Louise Hokans (20 Vallybrook Road) stated that Mr. Young was initially approved for 18 to 20 lots. After a few years he was approved for 37 lots and no one knows how that happened. He is building on ledge and her house is directly opposite from the subject lots. When she built in 1994 there was a 50' setback from the stream which was a full stream all the way to the ocean.

Since Windward was developed every home in her development has been damaged. She added that the houses in Windward aren't the nicest looking and they don't fit any of the Ogunquit atmosphere. She added that houses abutting the Windward development have had water damage in their basement for the

past four years. It has taken two years for one of Mr. Young's houses to be built, and everyone has had to listen to blasting and compressors for months. The EPA came in 2004 and checked the stream and designated it as a drainage ditch. When Paul Lempicki was the Code Enforcement Officer he told her that it was going to be redesignated as a stream.

Ms. Hokans stated that Mr. Young has reaped a few benefits from Ogunquit even though he doesn't live here and it would be a generous gesture for him to leave those lots just the way they are.

Bill Baker suggested the Board separate out this question from the rest of the proposed changes when they come before the voters.

Ms. Hokans added that in the last fifteen years the brook has changed direction. It is now five feet closer to the Windward development and it needs to be resurveyed. She also heard there is only one lot left in Windward, not two.

Tim Gowen addressed the Board of behalf of Steve Weigel who is the owner of one of the lots. Mr. Weigel is very concerned about this issue.

Ms. Freedman noted that there will be a Public Hearing later this evening, and there will be additional Public Hearings held by the Select Board.

Mr. Wilkos invited everyone to attend the Public Hearing later that evening.

Mr. Wilkos adjourned the Workshop at 5:30 p.m.

Respectfully Submitted

*Maryann Stacy*

Maryann Stacy  
Town of Ogunquit  
Recording Secretary

Approved on March 12, 2018

Ms. Freedman Moved to Accept as Amended.  
FREEDMAN/MACLEOD 5:0 UNANIMOUS