



Town of Ogunquit
Planning Board
Post Office Box 875
Ogunquit, Maine 03907-0875

Tel: 207-646-9326

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

**DUNAWAY CENTER MAIN AUDITORIUM
April 9, 2018**

PUBLIC HEARING

- 1. THE OGUNQUIT WINE CELLAR / ALEXANDRA HAIGHT – 59 Shore Road – Map 7 Block 115 – LBD. Site Plan Review Application for change of use from retail store to Type 3 Restaurant.**

Mr. Wilkos asked if there was anyone who wished to speak for, or against, this application; or if there was any member of the public who had questions. There was no one and the Public Hearing was closed at 6:02 p.m.

REGULAR BUSINESS MEETING

A. ROLL CALL – 6:00 P.M.

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

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

B. PLEDGE OF ALLEGIANCE -

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

D. MINUTES – March 26, 2018 Workshop and Regular Business Meeting.

**Mr. Hayes Moved to Accept the Minutes of the March 26, 2018 Workshop as Amended.
HAYES/BEVINS 5:0 UNANIMOUS**

**Mr. Hayes Moved to Accept the Minutes of the March 26, 2018 Regular Business Meeting
as Submitted.
HAYES/BEVINS 5:0 UNANIMOUS**

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.

Newell Perkins – 20 Fieldstone Lane – requested the Planning Board schedule a Workshop to discuss the possibility of designating Perkins Cove, between Adams Island entrance and Barnacle Billy's Restaurant as a "Historic District".

Mr. Perkins noted that the majority of the structures in Perkins Cove are of a similar architectural and esthetic appearance, and have a historic feel to them which should be preserved. He requested the Town Attorney, Town Planner, and Code Enforcement Officer be invited to attend said workshop.

Mr. Wilkos thanked Mr. Perkins for his input and informed him that the Board would discuss it under "other business" later in the meeting.

It was agreed that the Ogunquit Historic Preservation Commission would be included in any future workshop.

Mr. Wilkos responded to an e-mail which the Planning Board received from resident Mary Buck who asked several questions. Mr. Wilkos responded that "the Senior Housing Workshop was run the way it was under advice and guidance of the Town Attorney. He added that the Planning Board does review and abide by the Ordinances when reviewing any project.

F. UNFINISHED BUSINESS –

1. THE OGUNQUIT WINE CELLAR / ALEXANDRA HAIGHT – 59 Shore Road – Map 7 Block 115 – LBD. Site Plan Review Application for change of use from retail store to Type 3 Restaurant.

Mr. Wilkos noted that the Planning Board held a site visit and a public hearing earlier in the evening.

Mr. Heyland noted that the customer restroom has been relocated closer to the main retail space. He asked if the connecting door would be kept open.

Ms. Haight responded that she will leave it open and add better signage indicating where the customer restroom is located.

Ms. Botsford suggested better life safety fire exit signage.

Ms. Haight agreed; and added that the entire lower level of the building is under the control of Haight Dining LLC.

**Mr. MacLeod Moved to proceed with the Site Plan Review Approval Checklist.
MACLEOD/FREEDMAN 5:0 UNANIMOUS**

The Board reviewed the standards as outlined in Section 6.7 of the Ogunquit Zoning Ordinance”:

- A. Does this application involve a pre-1931 structure? Has the application been reviewed by the OHPC?

Mr. Heyland confirmed that it does involve a pre 1931 structure and that it was presented to the OHPC. The OHPC refrained from commenting because this application does not involve any exterior changes.

- B. Has the Application been submitted for review by all applicable Town Department Heads?

Mr. Heyland confirmed that it has.

- C. The Planning Board shall review the specifics of the proposed application for compliance with Article 6.5 of the Ogunquit Zoning Ordinance as follows: The Board shall approve the above-noted application if the Applicant can prove that the proposed use or structure:

1. Will allow the orderly and reasonable use of adjacent properties.

By a show of hands the Board unanimously determined that because there will be no changes to the exterior of the building; and the changes to the use will be so minimal that this standard had been met.

2. Will not adversely affect the safety, the health and the welfare of the Town.

By a show of hands the Board unanimously determined that because there will be no changes to the exterior of the building; and the changes to the use will be so minimal that this standard had been met.

3. Will not create an undue increase of vehicular traffic congestion on public streets or highways.

By a show of hands the Board unanimously agreed that parking for this business had been waived during an earlier application; and there would be no increase in vehicular traffic due to the change of use.

4. Includes adequate and proper public or private facilities for the storage, treatment, handling, use of, removal, or discharge of sewage, refuse, hazardous material or other effluent (whether liquid, solid, gaseous or otherwise) that may be caused or created by or as a result of the use.

By a show of hands the Board unanimously determined that because the changes to the use will be so minimal this standard had been met.

5. Materials incidental thereto or produced thereby will not give off noxious gases, odors, smoke or soot.

By a show of hands the Board unanimously determined that because the changes to the use will be so minimal, and there will be no cooking on site, this standard had been met.

6. Will not cause disturbing emission of electrical discharges, dust, light, vibration, or noise.

By a show of hands the Board unanimously determined that because the changes to the use will be so minimal this standard had been met.

7. The operations in pursuance of the use will not cause undue interference with the orderly enjoyment by the public of parking or recreation facilities, existing, or proposed by the Town or by other competent governmental agencies.

By a show of hands the Board unanimously determined that because the changes to the use will be so minimal this standard had been met.

8. Contains adequate, off-street parking in compliance with this Ordinance.

By a show of hands the Board unanimously determined that the parking for this property had been waived during a previous application hearing.

9. Does not create a hazard to life, limb or property because of fire, flood, erosion created by reason of use, or by the structures to be used therefore, or by the inaccessibility of the property or structures thereon for convenient entry and operation of fire and other emergency apparatus or by the undue concentration or assemblage of persons upon such plot.

By a show of hands the Board unanimously determined that because the changes to the use will be so minimal this standard had been met; in addition the Ogunquit Fire Chief attended the site visit. He submitted recommendations with which the Applicant has agreed to comply.

10. Will be sensitive to adjacent historic properties in compliance with Article 11.

By a show of hands the Board unanimously determined that there will be no changes to the exterior of the building and that this standard had been met.

11. Has a plot area which is sufficient, appropriate and adequate for the proposed use and the reasonably anticipated operation thereof.

By a show of hands the Board unanimously determined that because the changes to the use will be so minimal this standard had been met.

12. Will be adequately screened and buffered from contiguous properties.

By a show of hands the Board unanimously determined that there will be no changes to the exterior of the building; and that this standard had been met.

13. Will be constructed with adequate landscaping in compliance with this Ordinance, and provision for a storm water drainage system in compliance with the Ogunquit Subdivision Regulations.

By a show of hands the Board unanimously determined that this standard was not applicable to this application.

14. Will provide for adequate pedestrian circulation.

By a show of hands the Board unanimously determined that due to the limited interior space of the business it cannot accommodate large numbers of patrons; and as such this standard would be met.

15. Anticipates and mitigates potential nuisance created by its location.

By a show of hands the Board unanimously determined that because the changes to the use will be so minimal this standard had been met.

16. Complies in a satisfactory manner with all applicable performance standards criteria contained in this Ordinance.

By a show of hands the Board unanimously determined that, after a review of the above-noted criteria, this standard had been met.

Mr. MacLeod Moved to Approve the Site Plan Application for THE OGUNQUIT WINE CELLAR / ALEXANDRA HAIGHT – 59 Shore Road – Map 7 Block 115 – LBD. Site Plan Review Application for change of use from retail store to Type 3 Restaurant with the following three Conditions of Approval:

1. **There will be no alcohol consumption on site with the exception of Wine Tasting Events as approved by the State of Maine;**
2. **There will be no seating provided for patrons on premises;**

- 3. There will be no food preparation on site which would require an outside hooded ventilation system.**

MACLEOD/HAYES 5:0 UNANIMOUS

Mr. Heyland confirmed that prior to opening both he, and the Fire Chief, will conduct a final inspection of the property to ensure all life safety code requirements have been put in place.

- 2. 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. (This application was tabled by the Board on 12-11-2017) Planning Board Action: Determination of Application Completeness, Schedule Public Hearing and /or Site Visit, or Table.*

Mr. Wilkos informed the Board, and the public, that this application had been tabled at the Applicant's request.

G. NEW BUSINESS –

- 1. THE BEACH BASKET / LENOR GAUNYA – 22 Shore Road Unit 9 – Map 7 Block 118-9 – DBD – Site Plan and Design Review for pre 1930 Structure. Application for Change of Use from service nail salon to Type 3 Restaurant.**

Ms. Gaunya summarized her project as being very similar to the Wine Cellar. It will be a Type 3 Restaurant selling sandwiches, soups, and salads. Nothing will be cooked on site; food will be prepared off premises.

Mr. Feldman reviewed his March 28, 2018 Memo to the Board (*a copy of which will be maintained in the Applicant's Planning Board File*).

Mr. Feldman noted two outstanding issues:

1. Type 3 Restaurants allow for cooking of food on premises, however the Applicant has stated that will not be the case. There will be no cooking of food on premises.
2. Plans indicate that the proposed patio area on the front of the building encroaches onto abutting property. The Applicant's attorney submitted a letter discussing the "theory of rights of adverse possession" and Mr. Feldman recommended the Planning Board get an opinion from the Town Attorney regarding this issue.

Mr. Feldman noted that these are issues for discussion and do not effect the consideration of the application's completeness.

The Board unanimously agreed that it wanted Mr. Heyland to ask Town Attorney Mary Costigan for her opinion regarding the Applicant's Attorney letter.

Mr. Wilkos reviewed the March 14, 2018 Ogunquit Historic Preservation Commission's Minutes wherein they stated that they were in agreement with the proposed plan; and their suggestion that uniform table umbrellas replace the proposed retractable awning. It was noted in the minutes that the Applicant agreed to the replacement of the awning with individual matching color, table umbrellas.

Mr. MacLeod asked if there will be any wait staff service.

Mr. Heyland responded that there will be no wait staff serving of food. This restaurant will be for takeout only. Patrons may take the food away, or may consume it inside or on the patio; however there will be no wait staff.

At this time the Board reviewed the Design Review Submission Checklist under Article 11.6.A and found all material to have been submitted.

**Mr. Hayes Moved to Find the Design Review Submissions Complete for THE BEACH BASKET / LENOR GAUNYA – 22 Shore Road Unit 9 – Map 7 Block 118-9 – DBD – Site Plan and Design Review for pre 1930 Structure. Application for Change of Use from service nail salon to Type 3 Restaurant.
HAYES/BEVINS 5:0 UNANIMOUS**

At this time the Board reviewed the Site Plan Submission Checklist under Article 6.6.C.3 and found all materials to have been submitted

**Mr. Hayes Moved to Find the Site Plan Review Submissions Complete for THE BEACH BASKET / LENOR GAUNYA – 22 Shore Road Unit 9 – Map 7 Block 118-9 – DBD – Site Plan and Design Review for pre 1930 Structure. Application for Change of Use from service nail salon to Type 3 Restaurant.
HAYES/BEVINS 5:0 UNANIMOUS**

The Board unanimously agreed that a Site Visit would be helpful to the Board.

The Board scheduled a Site Visit for 5:00 p.m. on April 23, 2018 and asked the Applicant to clearly indicate the boundaries of the proposed patio area.

The Board scheduled a Public Hearing to take place at 6:00 p.m. on April 23, 2018.

The Applicant's representative indicated that they are working on the adverse possession and should have that resolved in the next few weeks.

**Mr. Hayes Moved to Table the Application for THE BEACH BASKET / LENOR GAUNYA – 22 Shore Road Unit 9 – Map 7 Block 118-9 – DBD – Site Plan and Design Review for pre 1930 Structure. Application for Change of Use from service nail salon to Type 3 Restaurant.
HAYES/BEVINS 5:0 UNANIMOUS**

2. ANN MCKEE – 632 Main Street – Map 3 Block 80-81-4 – GBD2 – Design Review for a pre 1930 Structure. Design Review to change window sizes and locations, add a front porch, change rear enclosed porch to two-story deck, remove shutters, and add siding.

Mr. Wilkos confirmed that this is a new application. He also stated that he is a direct abutter of this property; he was also once co-owner of the subject property. He no longer has any financial interest in the property and he asked the Board to vote on whether, or not, it feels he can make a fair and impartial decision.

Mr. MacLeod Moved to find that Chairman Wilkos can make a fair and impartial decision on this application.

MACLEOD/HAYES 5:0 UNANIMOUS

Michael Connell addressed the Board as the Applicant's representative. He summarized that he has already done some work on the property and this is the second phase for work on the 2nd floor. The proposal is to change a rear screened-in porch into a 1st and 2nd story deck. There will also be a new front porch. There had been two small porches on the front of the building which he will connect.

Mr. Connell noted that there is a right-of-way. He spoke with a representative from Great Works Regional Land Trust who indicated that they have no problem with work on the front or the rear of the building as long as it does not interfere with the 40' right-of-way.

Mr. Wilkos reviewed the minutes from the March 14, 2018 Historic Preservation Commission (OHPC) Meeting (*a copy of which will be maintained in the Applicant's Planning Board File*).

Mr. Connell agreed with the OHPC recommendation to use a traditional cedar porch railing system on the two sides of each level; as well as other esthetic characteristics.

Mr. Heyland informed the Board that he contacted the Town Attorney and asked about the 40' right-of-way issue; and whether or not the Board can become involved in building expansion in the right-of-way. He has not received a response; however if the Board were to schedule a Public Hearing he should have an answer from the Town Attorney by then. He will also ask the Town Attorney to review the rear right-of-way and the proposed change from enclosed porch to two level deck.

The Board came to a consensus that a Public Hearing would be helpful, particularly given the number of abutters who will be able to see the changes, as well as the right-of-ways on the property.

Mr. Hayes Moved to Find the Application Complete for ANN MCKEE – 632 Main Street – Map 3 Block 80-81-4 – GBD2 – Design Review for a pre 1930 Structure. Design Review to change window sizes and locations, add a front porch, change rear enclosed porch to two-story deck, remove shutters, and add siding.

HAYES/BEVINS 5:0 UNANIMOUS

The Board scheduled a Public Hearing to take place on April 23, 2018 at 6:00 p.m.

H. CODE ENFORCEMENT OFFICER BUSINESS –

The Board decided to wait for the completion of the Updated Comprehensive Plan before it schedules a workshop regarding the creation of a “Historic District” in Perkins Cove.

Mr. Hayes Moved to Table the scheduling of a Perkins Cove Historic District Workshop until the Comprehensive Plan Update is Decided.

HAYES / BEVINS 5:0 UNANIMOUS

The Board also agreed that it would contact the OHPC regarding the above-noted workshop suggestion.

I. OTHER BUSINESS – None

J. ADJOURNMENT –

Mr. Hayes Moved to Adjourn at 7:30 p.m.

HAYES/FREEDMAN 5:0 UNANIMOUS

Respectfully Submitted

Maryann L. Stacy

Maryann Stacy
Town of Ogunquit
Planning Board
Recording Secretary

Approved on April 23, 2018