



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
JANUARY 14, 2019**

PUBLIC HEARINGS

- 1. JAY GRAY – FOOD FOR THOUGHT – 414 Main Street – Map 8 Block 26 – GBD2 – Design Review Application for a post 1930 structure. Application to remodel outside seating and serving area for a new Type 2 Restaurant.**

Mr. Wilkos asked if the Applicant would like to speak.

Linda Tran addressed the Board as the Applicant's representative.

Mr. Wilkos asked if there was anyone who wished to speak for, or against, this application.

Kathleen Kotakis (25 Grasshopper Lane) addressed the Board. Ms. Kotakis is a direct abutter of the Applicant's site; she expressed her support of local businesses as well as her belief that the property, in its current condition, is "an eyesore". She noted that the past use of the property did not include a bar; and that business owner was very agreeable to management of noise and light pollution. She expressed her concern about the potential increase in noise and light pollution, and trespassers on her property.

Ms. Kotakis expressed concern that the proposed business will become a bar/micro brew pub which may attract a younger, louder, less respectful crowd. She asked the Board to address the buffering to reduce noise levels; as well as her property and the possible devaluation. Ms. Kotakis asked the Board members to consider the impact of a brewpub twenty to fifty feet from her bedroom and guest bedroom windows.

Ms. Kotakis asked the Board to:

- Hold a Site Visit;
- Require a minimum of two new buffering panels along south west end of the property;
- Require written confirmation from the property owner/applicant that wooden stockade panel fences and arborvitae trees will be repaired and maintained;

- Consider the hours of operation and the impact a 10:00 p.m. closing will have on abutters.

Lynne Freeman Sour spoke for herself; and on behalf of her mother Ruth Endicott (29 Grasshopper Ln). Ms. Freeman Sour stated that she has a long history with the area and has seen many changes with the subject property. She noted that vehicles parking in the applicant's property shine headlights directly into her mother's windows. She is concerned about light problems. Ms. Freeman Sour agreed with Ms. Kotakis about the possible noise from a brew pub as well as the diminishment of her mother's property value.

Ms. Freeman Sour also expressed concern about trash which has been a problem for some time. She is worried about patrons from the brew pub urinating behind the applicant's building. She asked for the same things Ms. Kotakis asked for.

Ms. Freeman Sour added that there are people living on the applicant's property which will be displaced to create a brew pub.

Mr. Wilkos asked if there was anyone else who wished to be heard. There being no one the Public Hearing was closed at 6:19 p.m.

REGULAR BUSINESS MEETING

A. ROLL CALL –

Members Present: Steve Wilkos (Chair)
Muriel Freedman
Mark MacLeod
Priscilla Botsford (1st Alternate)
Brian Aromando (2nd Alternate)

Members Excused: Rusty Hayes (Vice Chair)
Jackie Bevins

Also Present: Scott Heyland, Code Enforcement Officer

Mr. Wilkos noted that due to the excused absences of Mr. Hayes and Ms. Bevins, both Ms. Botsford and Mr. Aromando would be moved to full voting member positions for the duration of this meeting.

Mr. Wilkos also noted, for the record, that the Board held a workshop earlier this evening with the Ogunquit Playhouse; and the Board would discuss the outcome of this workshop later in this meeting.

B. PLEDGE OF ALLEGIANCE -

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

D. MINUTES – December 10, 2018 Workshop and Regular Business Meeting.

Mr. MacLeod Moved to Approve the Minutes of the December 10, 2018 Workshop Minutes as Amended.

MACLEOD/AROMANDO 5:0 UNANIMOUS

Mr. MacLeod Moved to Approve the Minutes of the December 10, 2018 Regular Business Meeting Minutes as Amended.

MACLEOD/BOTSFORD 5:0 UNANIMOUS

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

Mr. Wilkos asked if there was anyone from the public who wished to be heard on any matter not on this meeting’s agenda. There was no one.

F. UNFINISHED BUSINESS –

1. FINDINGS OF FACT FOR:

JACKIE & RON, LLC - ANGELO’S – 355 Main Street – Map 7 Block 29 GBD2 - Proposed Amendments to the July 24, 2017 Planning Board Design Review and Site Plan Review Approvals.

Proposed Amendments:

After the Fact:

- **Remove stone wall along Route One; and replace it with black metal fence.**

New Amendments:

- **Amend patio area from 600sf to a total of 1500sf;**
- **Clarify “service area”;**
- **Game ending time to coincide with ½ hour after sunset;**
- **Outside service until 10:00 p.m.; and closing of outside patron area at 11:00 p.m.**

Mr. MacLeod Moved to Reopen the Application for the limited purpose of reviewing the standards of the Findings of Fact for an Application which was approved on December 10, 2018.

MACLEOD/FREEDMAN 5:0 UNANIMOUS

The Ogunquit Planning Board reviewed the application using the set of approval criteria in Article 6 of the Ogunquit Zoning Ordinance as summarized below; and determined:

A. Does this application involve a pre-1931 structure?

The Board Unanimously agreed that it did not.

Has the application been reviewed by the OHPC?

The Board Unanimously agreed that it had not.

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

Mr. Heyland confirmed that it had.

- C. The Planning Board reviewed 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.

The Board unanimously agreed that it will.

Reason: Existing buffering, the addition of new buffering along Route One, and the elimination of the proposed expanded seating.

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

The Board unanimously agreed that it will not.

Reason: There will be no change in traffic, and the existing fence will be safer than the previously approved stone wall.

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

The Board unanimously agreed that it will not.

Reason: There will be no additional vehicular traffic.

- 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.

The Board unanimously agreed that it will.

Reason: There will be no change in capacity.

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

The Board unanimously agreed that they will not.

Reason: There will no change to the existing structure.

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

The Board unanimously agreed that it will not.

Reason: Applicant agreed to use dark sky rated lighting; and the Board agreed to revisit the approval during the summer of 2019 (Planning Board's first meeting in August 2019) by requesting any police complaints/reports.

Mr. MacLeod Moved to Amend the December 10, 2018 Approval by adding a requirement that the Board will review the application for noise complaints at the Board's first meeting in August 2019 noise complaints as evidenced by police reports.

MACLEOD/FREEDMAN 5:0 UNANIMOUS

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.

The Board unanimously agreed that will not.

Reason: There will be no changes.

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

The Board unanimously agreed it will.

Reason: There will be no change.

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.

The Board unanimously agreed that it will not.

Reason: There will be no change.

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

The Board unanimously agreed that it will.

Reason: There will be no change.

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

The Board unanimously agreed that it has.

Reason: There will be no change.

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

The Board unanimously agreed that it will.

Reason: There is existing buffering, and there will be an addition of a new hedge along Route One.

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.

The Board unanimously agreed that it will.

Reason: No change other than the addition of a hedge along Route One.

14. Will provide for adequate pedestrian circulation.

The Board unanimously agreed that it will.

Reason: There will be no change.

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

The Board unanimously agreed that it will.

Reason: There will be no change and the Board will review the approval in August 2019 for noise complaints.

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

The Board unanimously agreed that it will.

Reason: All of the above standards have been satisfied.

17. In their review, the Ogunquit Planning Board finds that the standards of Article 6 of the Ogunquit Zoning Ordinance:

- Have been met.
 Have been met with the conditions and/or waivers noted below:

December 10, 2018 Motions Approved by the Planning Board:

Mr. MacLeod Moved to Approve the After-the-Fact Application to remove the stone wall along Route One; and replace it with black metal fence.

MACLEOD/FREEDMAN (4:1) (Mr. Wilkos Dissenting)

Mr. MacLeod Moved to Approve the application to set game ending time to coincide with ½ hour after sunset.

MACLEOD/BOTSFORD 5:0 UNANIMOUS

Mr. MacLeod Moved to Approve the application to expand the outside service until 10:00 p.m.; and closing of outside patron area at 11:00 p.m. with a one year trial period; and for the application to be reviewed at the first Planning Board Meeting in August 2019.

MACLEOD/HAYES 4:1 (Mr. Wilkos Dissenting)

Have not been met.

Based upon the information above, the Planning Board therefore:

Approves the Site Plan Application

Approves the Site Plan with conditions which are to be complete and evidence filed in the Code Enforcement Office no later than sixty (60) days from plan approval; and prior to permit.

Mr. MacLeod Moved to Approve the Application with conditions as noted above.

MACLEOD/FREEDMAN 5:0 UNANIMOUS

2. JAY GRAY – FOOD FOR THOUGHT – 414 Main Street – Map 8 Block 26 – GBD2 – Design Review Application for a post 1930 structure. Application to remodel outside seating and serving area for a new Type 2 Restaurant.

Mr. Wilkos noted that a Public Hearing had been held earlier at this meeting and the Board received input from two abutters.

Linda Tran responded to the abutters' comments. Ms. Tran stated that the proposed business will not be a "microbrewery or a brewpub"; it will be a "beer garden" where they will serve craft beer. Ms. Tran also stressed that the Applicant's target patrons will be vacationers over the age of 30 similar to Beachfire Grill. She also noted that craft beers are not inexpensive and it is the Applicant's intent to not attract "party groups".

Ms. Tran stated that the Applicant intends to construct a fence to buffer the noise and light levels. She agreed that they want to work with the neighbors to prevent any noise or light pollution, however the Applicant may not have authority to construct a fence along the rear property line.

Mr. Heyland summarized that there are four residential rental units in the back of the building behind the restaurant space. This site is a mixed use property with commercial restaurant in front and apartments in the rear.

Mr. Heyland stated that the conditions of approval granted to Eddy's on the Main would carry over to any new operator. At this meeting the Board is looking at Design Review however the Board may look at any issue when an application comes before it. Mr. Heyland noted that Eddy's on Main has not been in operation at this site for two years and any trash problems coming from the property may be from the residential units. He agreed to speak with the property owner who manages the rental units.

The previous buffering was a mix of panel fencing and vegetative buffering. Mr. Heyland agreed to visit the site and evaluate the buffering adequacy and maintenance. He suggested that the Board might discuss a continuous 6' tall fence along the entire property line.

The Board unanimously agreed that, due to the abutters' concerns, it would hold a Site Visit.

Mr. Heyland stated that some of the things the Board will want to look at are:

Is there a handicapped parking space in the lot; and is it clearly identified?

Is the restroom adequate?

Due to the single restroom the maximum capacity for the business will be 40.

Mr. Heyland suggested that the Board will want confirmation about the fencing and "sail awing" designs.

Mr. Wilkos confirmed that this is a Design Review and the Board will want photographs/images of the exactly what the proposed fencing and sail awnings will look like.

Mr. Aromando asked if there would be any design applications on the fence.

Ms. Tran responded that any design elements would be interior; and the exterior will be plain fence; and that the fence will be along all three sides.

Ms. Freedman asked if the existing fence will remain. She asked if the proposed new fence would meet setbacks.

Mr. Heyland responded that the corner clearance for exiting vehicles will provide a 20 foot sightline.

Ms. Freedman asked where the bar will be located.

Ms. Trans responded that it will be next to the building.

Mr. Heyland added that the existing windows will be replaced with fixed units and that there will be no operating service windows.

There was some confusion between the Board and Ms. Tran about where the fence will be located.

Mr. Heyland informed Ms. Tran that, for the Site Visit, the Applicant will need to:

- Flag the location of the limits of the fencing;
- Flag the location of the area to be covered by the sails;
- Provide handouts of the fence design showing exactly what it will look like;
- Provide handouts of the sail awnings design showing exactly what they will look like;
- Location of trash receptacles/dumpster;
- Parking lot buffering as noted by the two abutters.

Ms. Tran agreed to provide the Board with a sample of the fence material, as well as a sketch of where the fence will be located.

Ms. Freedman asked if the restroom is no longer a laundry.

Ms. Tran responded that they will remove it.

Mr. Heyland added that this is an issue for the State Health Inspector.

Ms. Freedman confirmed that the Board would also look at the parking lot buffering.

Mr. Heyland responded that even though there is a residential use to the property; commercial uses are usually responsible for buffering.

Ms. Freedman asked if the owner of the property could be available for the Site Visit.

Mr. MacLeod Moved to Table the Application pending a Site Visit on February 11, 2019 at 4:30 p.m.

MACLEOD/FREEDMAN 5:0 UNANIMOUS

Mr. Wilkos informed Ms. Tran that the Site Visit would take place at 4:30 on February 11, 2019 and he confirmed that she understood what the Board would be looking at.

Ms. Tran agreed that she understood and would inform the Applicant.

G. NEW BUSINESS – None

H. CODE ENFORCEMENT OFFICER BUSINESS – None

I. OTHER BUSINESS –

1. Discussion of Ogunquit Playhouse 2nd Workshop.

Mr. MacLeod Moved to schedule a Public Hearing for the Ogunquit Playhouse Proposal for an Ordinance Change for Monday February 11, 2019 at 6:00 p.m.

MACLEOD/AROMANDO 5:0 UNANIMOUS

2. Final Review of Restaurant Definitions (Draft 4 November 27, 2018) and

Table 702.1.

Mr. Heyland informed the Board that the proposed changes would open Perkins Cove (SG2) for Type 4 Restaurant Uses, which are take-out only, after Site Plan Review. Currently this use is not permitted in that zone. The problem may be in that Type 3 take out restaurants are not permitted. If the proposed ordinance language goes through restaurants with takeout would have to have a take out window.

Mr. Heyland suggested allowing take out use for Type 3 and 4 Restaurants after Site Plan Review.

Mr. Wilkos suggested that with the change to allow Type 3 and Type 4 Restaurants in SG2 Table of Land Uses after Site Plan Review.

Mr. MacLeod Moved to change the Table of Land Uses, SG2 Restaurant Type 3 and Type 4 from NP to SPR.

MACLEOD/AROMANDO 5:0 UNANIMOUS

Mr. Wilkos noted that a Public Hearing for this proposed ordinance change would take place on February 11, 2019 at 6:00 p.m.

3. Discussion regarding After the Fact Applications.

Mr. Heyland summarized that in November of 2017 the Board held a workshop regarding After-The-Fact Applications. The result of that workshop was that the Planning Board Fee would be double for after the fact applications.

Mr. Heyland noted that the Board members had a copy of the fee schedule which needs to be adopted by the Select Board.

Mr. Heyland summarized that there are two types of after the fact applications:

1. Applicants who do work that required Planning Board Approval without coming to the Board at all.
2. Applicants who obtain Planning Board Approval for a project; and then deviate from the plan of that approval without first coming back before the Board for approval for the proposed changes.

The fee for an applicant who follows the protocol correctly and comes before the Board and asks to deviate from an approved plan, prior to any work, would be \$250.

If an applicant goes forward with work without initial Planning Board Approval; or if an applicant deviates from an approved plan without first obtaining Planning Board Approval to make the changes the fee will be \$1000.

Mr. MacLeod Moved to Approve the recommended fee changes as detailed on the new schedule of fees.

MACLEOD/BOTSFORD 5:0 UNANIMOUS

Mr. Wilkos asked Mr. Heyland to send this to the Select Board for Adoption.

Mr. Wilkos again noted that there would be no Planning Board Meeting on January 28th. The next Planning Board Meeting would take place on February 11, 2019.

J. ADJOURNMENT -

Mr. MacLeod Moved to Adjourn at 7:06 p.m.

MACLEOD/AROMANDO 5:0 UNANIMOUS

Respectfully Submitted

Maryann Stacy

Maryann Stacy
Town of Ogunquit
Planning Board
Recording Secretary

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Approved on February 11, 2019