



Town of Ogunquit
Planning Board
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**OGUNQUIT PLANNING BOARD
PUBLIC HEARINGS and REGULAR BUSINESS MEETING
MINUTES**

**DUNAWAY CENTER MAIN AUDITORIUM
August 26, 2019**

PUBLIC HEARINGS

1. **6 Month review of previously approved Application:
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.
Approved on February 11, 2019
Per Motion to Approve, Discussion will be limited to issues regarding noise.**

2. **6 Month review of previously approved Application:
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.****Approved on January 14, 2019****

Mr. Wilkos informed the Board and the Public that an attorney from the Maine Municipal Association had informed the Board that they may review an application, post approval. However, Town Attorney Mary Costigan recently advised the Board against holding tonight’s six month reviews because the Board was not specific enough in its Conditions of Approval regarding the reasons for the post approval reviews. Therefore, upon the advice of the Town Attorney, the Board would not be holding the two Public Hearings originally scheduled for this meeting.

Ms. Cooper asked if, in the future, the Board was specific in its conditions of approval and reasons for scheduling a post approval review, can it hold a six month review?

Mr. Wilkos responded that it can. He noted that if, during the application review process, a number of abutters expressed concern about something like excessive noise, the Board may schedule a post approval six month review to look at that specific condition.

Mr. Feldman agreed; and added that the Board will want to be careful about setting the specific/exact reasons for the post approval review, as well as the specific time frame when the applicant will be required to come back before the Board.

Ms. Botsford noted that this is what the Board did for one of tonight's reviews. The application approval motion noted a six month post approval review.

Mr. Feldman agreed; and added however that there was no specific "condition of approval" attached to that motion.

Mr. Heyland added that the Town Attorney stated that the Board did not explain exactly what would happen as a result of a post approval review. The Board would need to note, as a condition of approval, that a Business Registration, may be revoked if there are ongoing substantial problems, such as excessive noise every single night; and if a large number, such as fifty, abutters were to stand up and complain. There may also need to be a substantial record of documented complaints / police reports. The Board would need to be that specific. He also noted that the Board can't retract an approval. Recourse would be a recommendation to the Select Board at the time the business comes up for a Liquor/Amusement License or a Yearly Business Registration.

Mr. Wilkos noted that the Board received several e-mails regarding tonight's scheduled Public Hearings; and that these e-mails will be forwarded to the Select Board.

Mr. Heyland added that noise complaints are the most common type of complaints. He advised that, after hours noise complaints should be directed to the Ogunquit Police Department. He was informed that recently a resident called the police with a noise complaint and was informed that she should contact the Planning Board. Mr. Heyland reiterated that complaints regarding excessive noise, particularly after hours, need to be directed to the Police Department. He stressed that official complaints to the Police Department create a record which is needed to take action; and he will follow up with Town staff including the Police Department.

Mr. Heyland added that complaints will be compiled and directed to the Select Board during Liquor License / Amusement License renewal reviews. The Select Board review is the appropriate venue for abutter concerns.

REGULAR BUSINESS MEETING

A. ROLL CALL –

Members Present: Steve Wilkos (Chair)
Mark MacLeod (Vice-Chair)
Muriel Freedman
Jackie Bevins
Priscilla Botsford
Brian Aromando (1st Alternate)
Elaine Cooper (2nd Alternate)

Mr. Wilkos congratulated Ms. Botsford on her move from 1st Alternate to full voting member. He also congratulated Mr. Aromando on his move from 2nd Alternate to 1st Alternate; and he welcomed new Planning Board Member Elaine Cooper as the new 2nd Alternate.

Mr. Wilkos thanked former Planning Board Member, and Vice Chairman, Rusty Hayes for his service to the Board; and noted that Mr. Hayes was always fair in his decisions and always followed the Ogunquit Zoning Ordinance.

B. PLEDGE OF ALLEGIANCE –

1. Election of Officers.

**Ms. Freedman Nominated Steve Wilkos as Chair.
FREEDMAN/BEVINS 5:0 UNANIMOUS**

**Ms. Freedman Nominated Mark MacLeod as Vice-Chair.
FREEDMAN/BEVINS 5:0 UNANIMOUS**

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

D. MINUTES – July 22, 2019

**Ms. Freedman Moved to Accept the Minutes of the July 22, 2019 Meeting as Submitted.
FREEDMAN/BEVINS 4:0 UNANIMOUS (Mr. MacLeod was excused from the July 22, 2019 Meeting. Ms. Botsford voted on this motion.)**

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

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

F. UNFINISHED BUSINESS –

**1. FINDINGS OF FACT FOR:
THE OGUNQUIT WINE CELLAR / ALEXANDRA HAIGHT – 59 Shore Road
(Tax Map 7 Block 115) – LBD. Site Plan Review for a Change of Use from a Type
3 Restaurant to a Type 1 Restaurant.**

Approved on July 22, 2019.

Ms. Freedman Moved to accept the Findings of Fact for THE OGUNQUIT WINE CELLAR / ALEXANDRA HAIGHT – 59 Shore Road (Tax Map 7 Block 115). FREEDMAN / BEVINS 4:0 (Mr. MacLeod was excused from the July 22, 2019 Meeting when this Application was approved. Ms. Botsford, who was the 1st alternate for this application, voted on this motion).

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This Item was cancelled per discussion noted above.

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This Item was cancelled per discussion noted above.

G. NEW BUSINESS –

1. **MISTER T LLC / LINDA BRIGGS – 387 Main Street – Map 14 Block 13 – GBD2 – Site Plan and Design Review for Change of Use from gas station to office.
Application to construct a new structure for use as a real estate office.**

Presenting this application was: Applicant Linda Briggs, John Chagnon the project engineer from Ambit Engineering, and project architect Hiroko Lindsey from Lindsey Architects.

The Board agreed to accept two e-mails, regarding this application, which came into the Land Use Office after the Board members’ packets were distributed. Mr. Wilkos noted that these e-mails would be reviewed at the Public Hearing.

Mr. Chagnon gave an overview of the proposed project, including the material in the application submittal packet. He noted that the Applicant went before the Zoning Board of Appeals which denied her Application for a Variance and asked her to resubmit a plan which meets all setback requirements. He noted that the current plan meets all setbacks.

Mr. Chagnon noted that the plan includes required buffering along the southern boundary line. Pavement coverage will be reduced; and the plan calls for the use of existing parking spaces. There is a drainage pipe which will need to be removed which has been approved by the Department of Public Works Director Carol Murray.

Mr. Chagnon noted that the lighting plan, included with the application, complies with requirements for light spill onto adjacent properties.

Mr. Wilkos noted that the Ogunquit Zoning Ordinance lists gas stations as a prohibited use in Ogunquit; and he asked if the gas station use at this property has expired.

Mr. Heyland responded that it has not, however the one year abandoned use will occur very soon.

Ms. Botsford pointed out that there are no building dimensions indicated on the site plan and she asked if those could be provided. She also asked whether the reduction in the proposed building height is indicated in the amended plans.

Mr. Chagnon agreed to amend the site plan to include the structure's dimensions.

Hiroko Lindsey from Lindsey Architects responded that the height of the structure was reduced by 1.5 feet after she and the Applicant met with the Ogunquit Historic Preservation Commission (OHPC).

Ms. Lindsey pointed out the proposed location of the Applicant's sign at the north end of the paved area of the site.

Ms. Cooper noted that parcel acreage on the Town's VISION Tax Card and the Town's GIS Map did not match the indicated acreage on the Applicant's survey.

Mr. Feldman responded that the VISION Tax Cards and the Town's GIS Maps, while very accurate, are not survey accurate; and the survey should be used as the definitive source of information.

Mr. Chagnon agreed and pointed out the seal on the survey; and that the calculated acreage is the result of a Standard Boundary Survey.

Ms. Cooper noted Mr. Feldman's recommendation that the parking spaces be perpendicular to the building. She also pointed out that the Zoning Regulations require the parking spaces be

perpendicular to the structure. She noted the existing three parking spaces, currently located next to the bushes, and she recommended they stay that way because the bushes hide the cars.

Mr. Chagnon agreed there is an existing hedge which they want to retain.

Ms. Cooper asked if a visual impact study would be needed.

Mr. Wilkos responded that this is something the Planning Board, as a whole, would discuss and decide.

Ms. Lindsey explained that the design of the proposed structure was driven by the shape of the parcel; and the limited buildable area on that site. The style of the building was intended to be compatible with, not “look the same”, as surrounding structures. It was intended to blend in with the mixtures of other architectural styles in the area. The idea is not to create a building that is “contemporary” or “very different” but rather to create a look that blends in while keeping the integrity of the building style the Applicant wants.

Ms. Cooper asked if the Applicant would be willing to soften the look of the structure, per the OHPC recommendations, with the use of awnings or plant boxes. She asked for a rendering of the building which includes some of these features so the Board can get an idea of how it would look.

Ms. Cooper asked about the landscaping plans and she suggested the Applicant may want to keep to the use of native plants rather than the proposed “Asian” or “not native” plants which may not be able to handle the weather in this area. She also asked if the Applicant would be using asphalt, or another form of surfacing which is less impervious.

Mr. Wilkos responded that it is a good suggestion and it will be discussed by the Board as a whole.

Ms. Cooper again asked what type of surfacing is proposed. Will it be asphalt or some other surfacing which is less impervious?

Mr. Chagnon responded that the replacement surface will be asphalt paving.

Ms. Cooper asked if the metal fence along Glen Avenue would be demolished; and if the filter fabric would be removed.

Mr. Chagnon responded that the metal fencing is temporary fencing used to secure the site and it would be removed. There will be no fencing on the site; and the filter fabric is an erosion control device which is also a temporary measure.

Ms. Cooper asked about the storm water mitigation plan; and she asked how deep the crushed gravel would go. She noted that a metal roof will produce a lot of rainwater runoff.

Mr. Chagnon responded that when they excavate for the foundation they will replace the removed material with free-draining material. The replacement material will go down to the depth of the trench. The proposed structure is a slab on grade construction with a partial basement.

Ms. Cooper asked if the Glen Avenue access can be closed.

Mr. Chagnon responded that the Applicant wants to keep that access open.

Mr. MacLeod asked if there will be any change in grading to the parcel; and what affect any change may have on the storm water management.

Mr. Heyland responded that the overall impervious surface will be reduced; and the final topographic layout will introduce storm water into the catch basins just outside the Route One entrance to the property.

Mr. Chagnon agreed and added that the proposed grading is very similar to the existing grading; and the site will be less impervious. The new building roof will direct water to the drip aprons. He added that on the Glen Avenue side of the property the runoff will be directed through a green area before it reaches the catch basin on the south-east corner of the site. The pavement will slope towards Glen Avenue however they will introduce a swale which will capture the water before it reaches Glen Avenue. The water will travel through the entire southern buffer before it reaches a catch basin.

Ms Cooper asked if the DEP issued a report regarding safety issues which may have resulted from the previous gas station use of the property.

Mr. Heyland responded that when the gas station's underground tanks were removed the DEP required a third party inspector visit the site and inspect the soil. The site is clear of contaminants; and the Applicant and the Land Use Office received DEP Reports to confirm this.

Ms. Botsford asked if there is a sidewalk in front of this property.

It was agreed that there is no sidewalk in front of this property. The sidewalk is on the opposite (east) side of Route One; and there are crosswalks to the north and south of this property.

Mr. Chagnon added that the plan is to introduce a walkway from the edge of pavement to the new structure.

Mr. Feldman agreed to contact the DOT and see if there are any issues pertaining to this sidewalk/crosswalk question.

Mr. Heyland added that the proposed five foot wide walkway introduces people to an area where there is no corresponding sidewalk and he suggested the Applicant might consider doing away with it.

Mr. Chagnon agreed that the proposed walkway doesn't correspond to any Route One crosswalk.

Mr. MacLeod asked for confirmation that there is no proposed fencing on the property.

Mr. Chagnon confirmed that there will be no fence; there will only be a green vegetative buffer.

Mr. Aromando asked how this application ended up being reviewed by the Ogunquit Historic Preservation Commission (OHPC).

Mr. Heyland responded that after a conversation with the Chairman of the OHPC, it was agreed that the OHPC should review this application because of the proposed project's location in relationship to other historically significant structures.

Mr. Aromando asked where it says this in the Zoning Ordinance. He referenced Article 11.2 Definitions – Historical Significance; and he asked where it says that an applicant coming before the Planning Board will be put on notice that the OHPC will review their application and make recommendations and suggestions.

Mr. Aromando asked where this requirement is stated in the Zoning Ordinance, that when an applicant puts together an application they will have to go before the OHPC prior to coming before the Planning Board. He agreed that when an application involves a pre 1930 structure an applicant will be aware that the project will be reviewed by OHPC, however this application is not a pre 1930 structure. He asked where, in the Ordinance, it says that this applicant would have to go before the OHPC; and that the OHPC will have a say regarding what she can do with her project.

Mr. Heyland agreed and added that there are a couple sections in the Ordinance, one of which says that it is a way to ensure that new buildings will be designed and built in a manner which is compatible with The District. The call to send this applicant to the OHPC for review was his (Mr. Heyland's) decision. In the end the OHPC acts as an advisory body to the Planning Board and it is up to the Planning Board whether or not it will act upon OHPC recommendations.

Mr. Aromando pointed out that even before this applicant came before the Planning Board there was a comment from the OHPC regarding the proposed structure's height; and the Applicant amended her plans as a result. This cost the Applicant money; and this concerns him.

Mr. Aromando expressed concern about the Board overstepping the bounds of the Zoning Ordinance. He worries about applicants' ability to proceed through the Planning Board process in a quick, righteous, and least expensive manner. He wants to see the Board work with the Zoning Ordinance as its foundation; and if the Ordinance doesn't say it he believes the Board can't do it.

Mr. Wilkos confirmed that the Applicant met with the OHPC.

Mr. Feldman reviewed his August 13, 2019 Memo to the Board.

Mr. Heyland asked what “LSA” indicates on the Site Plan.

Mr. Chagnon responded that LSA indicates Landscaped Area which is anything that isn’t asphalt. He added that there will be a small bump-out on the structure for the storage of real estate signs. It is a one story box type bump-out on the rear of the building.

Regarding proposed lighting Mr. Chagnon stated that the proposed lighting will be significantly less than the gas station use. There will be one pole mounted parking area light on an existing pole; and perhaps one under-porch light, and a security light over the structure’s back door which will be very minor in nature. The Photometric plan indicates compliance with Town Zoning Requirements regarding lighting.

Mr. Wilkos reviewed the Ogunquit Fire Chief’s August 13, 2019 Memo to the Board.

Mr. Chagnon agreed to abide by the four requirements indicated on the Fire Chief’s Memo.

Mr. Wilkos reviewed the Memo’s to the Board from the: Water and Sewer Districts as well as the Public Works Department.

Mr. Wilkos asked about a fire suppression system.

Mr. Chagnon responded that it is his understanding that a fire sprinkler system is not required; and he confirmed that it is not planned. He added that this requirement was not listed on the Ogunquit Fire Chief’s Memo.

Mr. Heyland added that the project will require a review by the State Fire Marshall’s Office for a barrier free and construction permit; and the sprinkler question will be resolved at that time.

Mr. Chagnon agreed to submit the Report from the State Fire Marshall’s Office.

It was noted that the Board did not receive a memo from the Ogunquit Police Chief; and the Recording Secretary agreed to ask her to submit one for the next meeting.

At this time the Board reviewed the Design Review Submissions checklist and found all required / applicable materials to have been submitted.

Mr. Heyland asked the Applicant to confirm that the proposed construction cost of the new building was not over \$2,000,000.

Mr. Chagnon confirmed this to be true.

Mr. Wilkos asked whether the Board felt a Visual Impact Analysis would be needed.

The Board agreed that it was not needed at this time; however it reserved the right to request it at a later date.

Ms. Freedman Moved to Find the Design Review Application for MISTER T LLC / LINDA BRIGGS – 387 Main Street – Map 14 Block 13 Complete. FREEDMAN/BEVINS 5:0 UNANIMOUS

At this time the Board reviewed the Site Plan Review Submissions checklist and found all applicable materials to have been submitted.

The Board reviewed the Code Enforcement Officer's August 19, 2019 Memo to the Board regarding the waving of some Site Plan Review Submissions. Mr. Heyland recommended waiving these items because he considered them to be not applicable to this proposed project.

Mr. MacLeod Moved to find the Site Plan Application for MISTER T LLC / LINDA BRIGGS – 387 Main Street – Map 14 Block 13 Complete. MACLEOD/BOTSFORD 5:0 UNANIMOUS

The Board agreed that a Site Visit would be helpful and scheduled it to take place on September 9, 2019 at 4:30 p.m.

The Applicant was asked to flag the proposed structure's building corners as well as the edges of proposed paved areas particularly where pavement is proposed to be removed. It was also requested that a building height indicator be put in place to show the maximum building height at the top of the building's ridge.

The Board scheduled a Public Hearing to take place on September 9, 2019 at 6:00 p.m.

H. CODE ENFORCEMENT OFFICER BUSINESS –

Mr. Heyland advised the Board that he has been busy around Town regarding violations; and that he has generally received compliance from those businesses he contacts.

Mr. Wilkos asked what the procedure is for dealing with violations.

Mr. Heyland responded that when he becomes aware of a violation either because he sees it himself or because he has been notified about it, he visits the site and confirms the violation. At that time he reaches out to the business either with e-mail or verbally. If he doesn't see compliance in a timely manner his office sends out a letter citing the law or ordinance, which poses the danger of a \$100 to \$2500 per day fine for every day the violation, remains uncorrected. After that, if there is no compliance, the Town Attorney gets involved with either a consent agreement including an agreed upon fine; or if that doesn't work the business / property owner runs the risk of being taken to court.

Mr. Heyland confirmed that he has conferred with the Town Attorney; and she is working to resolve problems with a few businesses that have refused to come into compliance.

I. OTHER BUSINESS –

1. Review of Planning Board By-Laws for re-adoption or amendment at the September 9, 2019 Meeting.

Ms. Freedman noted that the By-Laws state that election of officers will take place at the Board's first meeting in July. She noted that this was not done this year; this action was done tonight which is August, not the first meeting in July.

Mr. Wilkos responded that the reason it was not done at the first meeting in July was because the Select Board did not make Planning Board appointments until after August 1st.

It was suggested that the By-Laws may be amended to:

2.3 Election of Officers

2.3.1 Nominations of officers shall be made from among the full Members of the Board at the annual organizational Meeting which shall be held ~~on the first regular Planning Board Meeting in July~~ at the Planning Board Meeting immediately following the Select Board's appointment/reappointment of Planning Board Members.

The Board agreed to consider the changes and vote on the amended language at the September 9th Meeting.

Mr. MacLeod asked if the Planning Board Agenda should include a standing item regarding Comprehensive Plan Action Item Review. This would cover anything in the Comprehensive Plan which falls under the Planning Board's purview. He suggested it may fall under, or after, "Other Business".

The Board agreed to consider this option and discuss it further at a later date.

J. ADJOURNMENT –

**Mr. MacLeod Moved to Adjourn at 7:40 p.m.
MACLEOD/BOTSFORD 5:0 UNANIMOUS**

Respectfully Submitted

Maryann Stacy

Maryann Stacy
Town of Ogunquit
Planning Board
Recording Secretary

Note:

- *These minutes are not a transcript.*
- *All Planning Board meetings are video archived, and may be viewed for one year after the meeting date, on the Town of Ogunquit's website at www.townofogunquit.org.*

Minutes approved on September 9, 2019