



Town of Ogunquit  
Planning Board  
Post Office Box 875  
Ogunquit, Maine 03907-0875  
Tel: 207-646-9326

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

**DUNAWAY CENTER MAIN AUDITORIUM  
October 16, 2019**

**PUBLIC HEARING**

**Old Village Inn Real Estate Holdings LLC - 250 Main Street – Map 7 Block 69 – DBD – Site Plan and Design Review. Application to construct a new one story structure with rooftop deck to be used as a Type 2 Restaurant.**

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

There was no one and the Public Hearing was closed at 6:05 p.m.

**REGULAR BUSINESS MEETING**

**A. ROLL CALL –**

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

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

**B. PLEDGE OF ALLEGIANCE -**

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

**D. MINUTES – September 23, 2019 Site Visit and Regular Business Meeting.**

**Mr. MacLeod Moved to Accept the Minutes of the September 23, 2019 Site Visit as Submitted.**

**MACLEOD/BOTSFORD 5:0 UNANIMOUS**

**Ms. Freedman Moved to Accept the Minutes of the September 23, 2019 Regular Business Meeting as Amended.**

**FREEDMAN/MACLEOD 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.

Ms. Bevins responded to Mr. Dolliver's comments at the September 23, 2019 Meeting. She said the same people came to speak to her in the cove. She did not know what they were talking about. Ms. Bevins presented a letter to the Board and asked that it be read and commented on.

Mr. Wilkos read a letter from Jay Audet dated October 10, 2019 which had been forwarded to the Land Use Office. *(A copy of the letter is attached to these minutes as part of the record).*

Ms. Bevins stated that this isn't the Planning Board's job; and if there was any kind of study she knew nothing about it.

Ms. Cooper responded that during the summer she did go around the Town of Ogunquit. She counted all the spots in both public and private parking lots. She wanted to get an idea of how many spots in town people had to pay for and how many spots were free. She denied ever having that conversation with Mr. Audet. She said she drove into his lot and asked him if he knew how many spots he had. He responded that he did not. He did ask if she was working for the ORA and she responded "absolutely not, this is me personally looking into it...". Ms. Cooper reiterated that this took place over the summer; and when she asked for confirmation that Mr. Audet did not know how many spots he had in his lot he responded "no". She suggested she would guess at 90 and he responded that there were 150. He asked why she wanted to know this and Ms. Cooper responded that it may be helpful to the Planning Board and the Comp. Plan Committee in the future. It had nothing to do with the Planning Board as she was not then a member; and this was a personal study.

**F. UNFINISHED BUSINESS** –

- 1. FINDINGS OF FACT FOR: 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.** Approved on September 23, 2019.

**Ms. Freedman Moved to Accept the Findings of Fact for Mister T LLC as Amended.**

**FREEDMAN/ BOTSFORD 5:0 UNANIMOUS**

**2. Old Village Inn Real Estate Holdings LLC - 250 Main Street – Map 7 Block 69 – DBD – Site Plan and Design Review. Application to construct a new one story structure with rooftop deck to be used as a Type 2 Restaurant.**

Mr. Wilkos noted that all members of the Board attended the Site Visit earlier in the afternoon as did the Fire Chief, Mr. Heyland, Mr. Feldman, and Mr. Mayer from the Conservation Commission.

Geoff Aleva addressed the Board as the Applicant's representative. Mr. Aleva gave a brief summary of the project. He noted that an abutter expressed concern about the appearance and landscaping on the slope at this property. He noted that the Board had received a Landscape Plan which indicates the proposed improvements for the area of the subject property abutting residential neighbors. The plan is to plant trees in that corner as well as native shrubs and bushes on the slope between the Town Parking Lot and the subject property. All this new vegetation will grow from 8 to 12 feet in height which should shield the slope.

There will be plantings over the entire slope to handle erosion control and landscaping.

Mr. Wilkos asked if there were any abutters present. There were not. Mr. Wilkos stated that it has been his intention to ask any abutters if they were satisfied with the proposed screening.

The Board agreed that the proposed vegetative buffering will be satisfactory.

Ms. Bevins asked if the building would be handicapped accessible; and if there will be an elevator.

Mr. Aleva responded that there is no elevator. An elevator is not required by the State of Maine, however the building will be handicapped accessible from the parking area. This building will have barrier free access to all areas of the building except for the 2<sup>nd</sup> floor roof deck. It will be ADA Compliant.

Ms. Botsford asked how the construction equipment will access the site for construction of the new building.

Mr. Aleva responded that the intent is to utilize the Old Village Inn's parking area for construction staging and to do most of the work during the winter months when traffic is low; however they may need to access the site from the Town's Lower Parking Lot in order to do the work to stabilize the slope and to drive the piles to support the new building. They have a Geoscientist Report and will work with them to ensure that the project does not damage the Town Parking lot or any of the abutters' properties.

Ms. Botsford again expressed her confusion as to why the Board is not requiring a traffic study. She also asked for flagging on the ground to indicate the property line and the location of the new building's footprint. Ms. Botsford reminded the Board that this Applicant is putting a 100 seat restaurant in a very congested area of Town; and they are also asking to perform a very complicated engineering project to stabilize this backfill slope.

Mr. Heyland responded that the uphill side of the building location was staked for the site visit; however getting into the brush down-slope to stake the lower building corners would have been difficult and probably not clearly visible. Mr. Heyland added that the existing ground slope under the proposed structure is basically “fill” however that soil will not be the support for the new building. While the sloped area will be under the new building, the structure’s support will come from the pilings driven down to bedrock; and the soil and vegetation on the slope, which will be improved to prevent erosion and provide a vegetative buffer, will all be under the structure.

Mr. Aleva agreed.

The Board agreed that they have an understanding of where the proposed structure will be located; and do not need to have the back corners of the building staked or revisit the site.

Mr. Heyland added that the Applicant will have to provide a Height Certificate for the Building Permit.

Regarding a traffic study. Mr. Feldman stated that traffic studies are not generally done for construction vehicles. He reiterated that Ogunquit has no parking standards for the Downtown area, therefore it is assumed that most people frequenting the downtown businesses are walkers who have already parked their vehicles elsewhere; and the downtown businesses are not generators of traffic in and of themselves.

Ms. Cooper asked when the Town will look at saturation levels for traffic in the downtown area. She suggested the Town needs to look at parking in Town and the Town needs to address that issue.

Mr. Wilkos responded that when reviewing this application the Board has to look to the language in the Zoning Ordinance.

Mr. Aromando asked who oversees the use of support pilings and the stability of the slope at this site.

Mr. Heyland responded that Mr. Aleva is a Certified Professional Engineer and he (Mr. Heyland) depends on Mr. Aleva’s expertise and experience to oversee the construction.

Mr. Aleva gave the Board an overview of his educational, licensing, and work experience that all make him qualified to oversee this project. He noted that he is licensed in several states beyond the State of Maine. He added that the proposed pile supported structure for this project is a common type of construction and support.

Mr. Aleva summarized that the loose material embedded in the slope at this site will be removed and a more secure type of fill will replace it. They will then shape and stabilize the slope, combine this with the design for the pilings, and add landscape plantings to stabilize the area even more. The pilings will be driven down to bedrock. The new structure will be constructed on

these pilings; and the new building will be independently supported, separate from the soil and vegetation on the slope.

Mr. MacLeod noted an amended Memo from the Fire Chief dated October 10, 2019 wherein the Fire Chief confirmed the underside of the new structure will not need to be sprinkled.

Mr. Aleva agreed that this part of the building (the underside) is not required to be sprinkled.

Mr. Wilkos reviewed a memo from the Ogunquit Historic Preservation Commission dated August 14, 2019.

Ms. Botsford noted that the Comprehensive Plan states that the Town does not want to build on slopes greater than 25%. She asked if this is something the Board is going to ignore or not address.

Mr. Wilkos suggested the Ordinance says 15%.

Mr. Heyland agreed to look this up.

Ms. Cooper asked if the fence at the low end of the slope will stay in place.

Mr. Aleva responded that an erosion fence will be in place during construction and they will place a more permanent, more attractive fence as well as landscaping when the project is complete.

Mr. Feldman responded to Ms. Botsford's comment regarding slope %. Mr. Feldman stated that Article 8.5.C Prevention of Erosion states that "All applicants for a permit for development on slopes greater than 15 percent shall be required to submit a soil erosion and sedimentation plan meeting the standards of the County Soil and Water Conservation District and the Maine Soil and Water Conservation Commission. In addition, all applicants proposing development on slopes greater than 25 percent shall be required to submit engineering or architectural information which indicates that the development is designed for the site in a proper manner as the Code Enforcement Officer may reasonably require." It doesn't say the Applicant can't do it, it says they need to provide the information to the Code Enforcement Officer.

Mr. Feldman informed the Board that all of the concerns he noted in his September 11, 2019 Memo have been satisfied and he does not see any outstanding issues.

Mr. MacLeod asked about the Upper Parking Lot Pedestrian Access.

Mr. Aleva responded that it will be moved to the east, nearer to the dumpster and the bike rack, which is a safer location.

At this time the Board reviewed the Design Review Certification Checklist and, after brief discussion, found all requirements acceptable.

Mr. Wilkos asked Mr. Aleva for the height of the proposed building.

Mr. Aleva responded that it will be 19 feet above finished floor to the top of the roof. He noted that it will be 1.5 stories; the visual appearance/impact from Main Street will be very small; and the visual appearance/impact from the Lower Parking Lot will be of a height visually similar to abutting structures.

It was noted that the OHPC reviewed the proposed design and granted the Applicant a Certificate of Appropriateness. It was also noted that the appearance of the new structure will give it the look of a ship.

**Mr. MacLeod Moved to Approve the Design Review for Old Village Inn Real Estate Holdings LLC - 250 Main Street – Map 7 Block 69 – DBD –Design Review. Application to construct a new one story structure with rooftop deck to be used as a Type 2 Restaurant. MACLEOD/BEVINS 5:0 UNANIMOUS**

At this time the Board reviewed the standards for Site Plan Review as noted in Section 6.7 of the Ogunquit Zoning Ordinance.

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

The Board confirmed that it does not involve a pre 1931 structure.

Has the application been reviewed by the OHPC?

The Board confirmed that it had.

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

The Code Enforcement Officer confirmed that it was submitted to all applicable departments heads.

At this time the Board reviewed the standards for Site Plan Review as noted in Section 6.5 of the Ogunquit Zoning Ordinance.

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

Tom Bassoni, the property owner, stated that he is in the restaurant business and has no intention of having any entertainment. His hours of operation for purposes of his Liquor License and Business Registration, will be from 11:00 a.m. to 1:00 a.m. however he anticipates actual operating hours of 10:00 a.m. to 11:00 p.m. He noted that he also owns the abutting Old Village Inn and doesn't intend to inconvenience his guests there with noise from the new restaurant; and he will follow all the Town Ordinances with regard to noise and lighting.

The Board agreed 4:1 (Ms. Botsford dissenting) that it will allow the orderly and reasonable use

of adjacent properties, this determination is based upon the buffering between the commercial and the single residential property; including the maintenance and planting of high blueberry bushes and trees.

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

The Board unanimously agreed that it will not, based upon the Memo from the Director of Public Works.

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

The Board unanimously agreed that it will not, because there is no additional parking to be added.

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 it does, because the property will be serviced by public water and sewer; and because there is a good storm water plan to be implemented.

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, because the use will be restricted to a Type 2 Restaurant Use.

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

The Board unanimously agreed it will not, because of the use of downward facing lights which are equivalent to dark sky rated lights; and because the proposed buffering will reduce noise and vibrations.

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 they will not, because there are no nearby public or recreational facilities other than the Town Parking Lots.

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

The Board unanimously agreed that this standard is not required.

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, because the interior of the building will be sprinkled per the Ogunquit Fire Department's Requirements.

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

The Board unanimously agreed that it will per the OHPC Certificate of Appropriateness.

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 does, as is demonstrated on the Site Plan; and because it meets all setbacks.

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

The Board unanimously agreed that it will, because of the existing and agreed upon buffering plan and proposed plantings.

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, because of the submitted landscaping and storm water drainage plans.

14. Will provide for adequate pedestrian circulation.

The Board unanimously agreed that it will, because there are two access points: one from the street and one from the parking lot.

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

The Board unanimously agreed that it will, because of the buffering; and because of the Applicant's agreement to no live entertainment or use of outside speakers.

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

The Board agreed 4:1 (Ms. Botsford Dissenting) that it will, because it meets items 1 through 15 as noted above.

**Mr. MacLeod Moved to Approve the Site Plan for Old Village Inn Real Estate Holdings LLC - 250 Main Street – Map 7 Block 69 – DBD –Site Plan Review. Application to construct a new one story structure with rooftop deck to be used as a Type 2 Restaurant. MACLEOD/BEVINS 4:1 (Ms. Botsford Dissenting).**

**G. NEW BUSINESS –**

**1. YORK HARBOR BUILDERS / SUNSET RIDGE SUBDIVISION – Sunset Ridge – Map 18 Block 3-1 – RR1 - Subdivision Sketch Plan Application. Application to develop a four lot subdivision.**

James Paolini (the Applicant) gave the Board a summary of the proposed project as covered in the application submission packet. He said that this will be for a simple three lot subdivision on Sunset Ridge which is off of Berwick Road. The lots will be between 2 and 2.5 acres serviced by well and septic. Wetlands have been flagged and there are no vernal pools. They have tested for septic systems. The proposed road will be approximately 280 feet long ending in a cul-de-sac.

Mr. Wilkos asked if this is a three or four lot subdivision.

Mr. Feldman responded that there is one existing house/lot there now; and the Applicant is asking for three more. The end result will be a four lot subdivision which includes the existing house.

Mr. Feldman reviewed his 10-8-19 Memo to the Board. This memo noted a few outstanding issues which the applicant will want to address as he moves forward with Preliminary Plan.

Mr. Aromando noted that this is a minor subdivision and he asked if a traffic study is required.

Mr. Feldman responded that anything over a five lot subdivision requires a traffic study. This is a four lot subdivision so it does not trigger that requirement.

Mr. Wilkos asked the Board how it feels about requiring the Applicant to submit a new boundary survey as noted in Mr. Feldman's Memo.

The Board determined that it will want a new standard boundary survey which addresses Mr. Feldman's concerns as outlined in his October 10, 2019 Memo. All of Mr. Feldman's Memo points will need to be included in the Preliminary Plan Application.

Ms. Freedman asked why no traffic study is required.

Mr. Heyland responded that based upon vehicle trips per day and the number of required parking spaces, this proposal falls below the threshold which triggers the requirement of a traffic study.

Ms. Freedman asked if the Berwick Road Route One Intersection is a failed intersection.

Mr. Feldman responded that there is no imperial data which proves that this is a failed intersection. He confirmed Mr. Heyland's analysis that this proposed subdivision does not meet the threshold for a traffic study requirement. That being said the Board may require the Applicant to provide a Level of Service analysis of the Berwick Road Route One Intersection or even a Traffic Study.

Mr. Wilkos asked who would determine if that intersection is a failed intersection.

Mr. Feldman responded: "a traffic engineer who will conduct an analysis on behalf of the Applicant; at the Applicant's expense; and if the Board requires it."

It was suggested that an analysis of this intersection was done eight years ago, even though no one has seen such a report. It was also suggested that for the purpose of this application the Board may want current data and a current report.

Mr. Feldman reiterated that if the Board feels a study needs to be done it (the Board) may require the Applicant provide a traffic study showing that there are no issues with the subject intersection. He noted that Town Staff may not require this, however the Planning Board may.

Mr. Aromando asked if the Bodack v. Town of Ogunquit Court Case has any impact on the Board's review of this application.

Mr. Heyland agreed to ask for legal input from the Town Attorney. He also noted that the Board may require a Traffic Study; and it may also require a peer review of that study.

Mr. Feldman added that the Applicant can also propose traffic mitigation measures to reduce, or not exacerbate, the Berwick Road Level of Service status when that status has been confirmed.

Mr. Paolini responded that he could build one house now; and another in four years, and the fourth house in five years without any subdivision review. However the project will be of better quality - better for everyone if it goes through the Planning Board review process. Mr. Paolini went on to say that he drives Berwick Road every day and he never waited at that intersection. He expressed that it is unfair that he has to pay for the traffic study even after several single family homes have been built on Berwick Road already.

Mr. Wilkos responded that this application is before the Board for Subdivision Review and is subject to that review and anything the Board determines it needs to satisfactorily conduct that review. He noted that the Board has required other applicants to provide full traffic studies at the applicant's expense.

Mr. Heyland again confirmed that he will ask the Town Attorney if the Bodack Legal Decision can apply to this application.

Mr. Wilkos informed the Applicant that a traffic study may be required as the application moves through the Planning Board Review Process.

The Board scheduled a Site Visit for October 28, 2019 at 4:00 p.m.

Mr. Heyland informed the Applicant that there are Site Visit criteria in the Subdivision Ordinance which he should review. This includes, but is not limited to: staking out the center of the proposed road, lot corners, and house locations. He suggested the Applicant contact the Land Use Office for any further requirements.

**Mr. MacLeod Moved to Postpone this Application pending a Site Visit on October 28, 2019.**

**MACLEOD/BOTSFORD 5:0 UNANIMOUS**

At 6:35 p.m. Ms. Botsford left the meeting and Ms. Cooper was moved to full voting member for the duration of this meeting.

**2. TOWN OF OGUNQUIT – 124 Beach Street – Map 7 Block 132 – SGD1. Site Plan Review and Design Review for expansion and renovation of existing bath house with reconfiguration of parking and drive aisles.**

Stephen Bradstreet addressed the Board as the Applicant's representative. Mr. Bradstreet gave an overview of the proposed project as reflected in the application submittal packet. He noted that there will be a loss of eight parking spaces at the Main Beach Parking Lot; but a gain back of two parking spaces for maintenance staff and life guard/emergency vehicles.

Mr. Bradstreet confirmed that the approximately 900 square feet of building expansion will only be to the south, into the parking lot area and will not expand to the east because of the location of the dune system.

He noted that the storm water plan will improve the storm water quality. Existing impervious ground surface will be somewhat replaced with roof water runoff, which is better for the environment than pavement runoff.

He noted that there will be ADA access to the building

Mr. Heyland noted that the Applicant was requested to bring large scale drawings of some of the already submitted material. The Board agreed to accept these larger drawings.

Mr. Heyland reviewed his October 8, 2019 Project Review Memo to the Board as well as his October 8, 2019 Submissions Memo.

Mr. Bradstreet submitted two Waiver requests for Site Plan Submission Items: 6.6.C.3.N.i and 6.6.C.3.O.i.

**Mr. MacLeod Moved to Deny the Waiver Request for Item 6.6.C.3.N.i.**  
**MACLEOD/COOPER 5:0 UNANIMOUS**

**Mr. MacLeod Moved to Deny the Waiver Request for Item 6.6.C.3.o.i.**  
**MACLEOD/COOPER 5:0 UNANIMOUS**

Mr. Wilkos informed the Applicant that he would be required to submit these two items.

Mr. Bradstreet agreed to do so.

Mr. Wilkos noted that the Board cannot find this application complete without items: 6.6.C.3.N.i and 6.6.C.3.O.i. Letters from the Water and Sewer Districts.

**Mr. MacLeod Moved to Table the Application for TOWN OF OGUNQUIT – 124 Beach Street – Map 7 Block 132 – SGD1. Site Plan Review and Design Review for expansion and renovation of existing bath house with reconfiguration of parking and drive aisles.**

**Pending submittal of Site Plan Review Submission Items 6.6.C.3.N.i and 6.6.C.3.O.i. Letters from the Water and Sewer Districts.**

**MACLEOD/FREEDMAN 5:0 UNANIMOUS**

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

**I. OTHER BUSINESS – None**

**J. ADJOURNMENT –**

**Mr. MacLeod Moved to Adjourn at 8:45 p.m.**

**MACLEOD/FREEDMAN**

Respectfully Submitted

*Maryann Stacy*

Maryann Stacy  
Town of Ogunquit  
Planning Board  
Recording Secretary

*APPROVED ON NOVEMBER 13, 2019*

*Notes:*

- *These minutes are not a transcript.*
- *Copies of all referenced documents will be maintained in the Application packet on file with the Land Use Office.*
- *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](http://www.townofogunquit.org).*