Town of Ogunquit
Planning Board
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OGUNQUIT PLANNING BOARD
PUBLIC HEARINGS and REGULAR BUSINESS MEETING
MINUTES
DUNAWAY CENTER MAIN AUDITORIUM
NOVEMBER 13, 2019

PUBLIC HEARINGS

1. TOWN OF OGUNQUIT – 124 Beach Street – Map 7 Block 132 – SGD1.

Stephen Ransom from Ransom Engineering gave a brief overview of the proposed project.

Mr. Wilkos asked if there was anyone who wished to speak for or against, or who had questions regarding this application. There was no one and the Public Hearing was closed at 6:11 p.m.

2, REDWOOD RESORTS LLC / COLONIAL VILLAGE RESORT – 548 Main Street – Map 9 Block 85-86 – SLC.

Brandon Binette gave a brief overview of the proposed project.

Mr. Wilkos asked if there was anyone who wished to speak for or against, or who had questions regarding this application. There was no one and the Public Hearing was closed at 6:13 p.m.

3. DAVID GIARUSSO / ANGELINA'S – 655 Main Street – Map 13 Block 49 – GBD2.

Mr. Wilkos asked if there was anyone who wished to speak for or against, or who had questions regarding this project.

Barbara Ferraro (36 Ocean Heights Lane) addressed the Board. Ms. Ferraro stated that she is an abutter of Angelina's and in the past she has supported applications from this applicant. She supports this application as long as a standard, correct, and fair, process is followed and if the request is within the legal guidelines of the Town; and if the Board's decision is an informed and not a personal decision. Over the past few years some applicants coming before this Board have had to respond to many requests and jump through hoops before getting approval. At the last meeting it was stated that no original building permit could be found and that the lot coverage could be over 30%. She asked the Board how they could not ask for a survey when that is part of every application before a Site Visit. Ms. Ferraro reminded the Board of an e-mail she sent to them after the last meeting where she expressed her amazement at the "unprofessional and personal feelings which entered into a decision to grant a waiver". One of the Board members based her decision on "knowing the performance by Mr. DeHart". She asked if this is the process for every application. Ms. Ferraro noted that Mr. Giarusso has "barred four of us from his restaurant because a friend of theirs wrote a bad review". This is personal for her but she would not let personal feelings enter into a yea or nea for his business request or Mr. DeHart's request.

Mr. Wilkos asked if there was anyone else who wished to speak regarding this application. There was no one and the Public Hearing was closed at 6:24 p.m.

REGULAR BUSINESS MEETING

A. ROLL CALL –

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

Mr. MacLeod Moved to excuse Mr. Aromando.
MACLEOD/FREEDMAN 5:0 UNANIMOUS

Members Excused: Brian Aromando (1st Alternate)

Also Present: Scott Heyland, Code Enforcement Officer

B. PLEDGE OF ALLEGIANCE -

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

D. MINUTES – October 16, 2019 Regular Business Meeting.

Mr. MacLeod Moved to Approve the Minutes for the October 16, 2019 Meeting as Submitted.
MACLEOD/BEVINS 5:0 UNANIMOUS.

October 28, 2019 Public Hearing and Regular Business Meeting.

Mr. MacLeod Moved to Approve the Minutes of the October 28, 2019 as Amended.
MR. MACLEOD/BEVINS 5:0 UNANIMOUS

E. PUBLIC INPUT – For any matter not on this agenda.

Mr. Wilkos asked if there was anyone who wished to speak on any matter not on this meeting's agenda.

There was no one.

F. UNFINISHED BUSINESS –

1. FINDING OF FACT FOR Old Village Inn Real Estate Holdings LLC - 250 Main Street – Map 7 Block 69 – DBD. Approved on October 16, 2019.

Mr. MacLeod Moved to Approve the Findings of Fact for Village Inn Real Estate Holdings LLC - 250 Main Street – Map 7 Block 69 – DBD.
MACLEOD/BEVINS 5:0 UNANIMOUS

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.

Brandon Binette from Northeast Civil Solutions addressed the Board.

Ms. Cooper noted that there were two submittals regarding the structure's location in relationship to the Flood Plain. One submittal was from 1992 and one from 2017. She asked which was correct.

Mr. Heyland responded that 1992 is the effective Flood Plain Map date; and that map places the structure outside of the Flood Zone.

Mr. MacLeod asked if the plan the Board will sign will be the most current Final Plan.

Mr. Heyland responded that it will.

At this time the Board reviewed the Design Review Approval Checklist:

A. Does this review involve a structure built prior to December 31, 1930?

The Board unanimously agreed that it did not involve a pre 1931 structure; and that it had not been reviewed by the OHPC.

B. Review according to Article 11.7.C of the Ogunquit Zoning Ordinance:

1. Scale of Building – Is the scale of the building visually compatible with the site and neighborhood as to the relationship of the open spaces around it and the size of doors/windows/porches/balconies?

The Board unanimously agreed that it is, because the building will not increase in height and will only be expanded to the south into the Town Parking Lot.

2. Height – Is the height of the building visually compatible with the heights of the buildings in the neighborhood?

The Board unanimously agreed that this standard is not applicable, because the height of the building will not change; and because it will remain the lowest building in that area.

3. Proportion of Front Façade – Is the relationship of the width to the height of the front façade visually compatible with that of its neighbors?

The Board unanimously agreed that it is, because it will maintain the existing style and the number of doors will not change.

4. Relationship of Solids to Voids in Front Façade – Is the pattern of solids and voids in the front façade visually compatible with that of its neighbors?

The Board unanimously agreed that it is, because it will maintain the existing shingle style and the number of doors will not change.

5. Proportions of Openings Within the Facility – Is the relationship of the height of windows and doors to their width visually compatible with the architectural style of the building and with that of its neighbors?

The Board unanimously agreed that it is, because it will maintain the existing shingle style of other buildings in the area; and the number of doors will not change.

6. Roof Shapes – Is the shape and proportion of the roof visually compatible with the architectural style of the building and with those of neighboring buildings?

The Board unanimously agreed that it is, because the existing roof will not change and the addition's roof will be consistent with the existing roof.

7. Relationship of Façade Materials – Are the facades of the building, particularly the front façade, visually compatible with those of other buildings around it?

The Board unanimously agreed that they are, because they will maintain the existing shingle style of the neighborhood.

8. Relationship of Spaces to Buildings on the Street – Has the rhythm of spaces to buildings been considered when determining visual compatibility, whether it is between buildings or between a building and the street?

The Board unanimously agreed that this standard is not applicable, because the structure is not on a street.

9. Site Features – Is the size, placement, and materials of walls, fences, signs, driveways, and parking areas visually compatible with the building and neighboring buildings?

The Board unanimously agreed that this standard is not applicable, because there are no other site features other than the building, sidewalk and parking lot.

10. Architectural, Historical or Neighborhood Significance – Have the construction, reconstruction, maintenance, or moving of pre-1931 buildings been done in a manner which is visually compatible with the architectural, historical or neighborhood significance of buildings existing in 1930.

The Board unanimously agreed that this standard is not applicable, because this not a pre 1931 building.

C. If the review requires more time to complete: this review does not require additional time.

The Board agreed that it does not require additional time.

Obtain verbal/written agreement from the applicant for an extension;

or

Deny the application based on insufficient time to complete the review.

D. Does the Planning Board desire an irrevocable letter of credit or performance bond prior to the issuance of a Building Permit?

The Board unanimously agreed that no irrevocable letter of credit or performance bond is required.

Mr. MacLeod Moved to Approve the Design Review Application for TOWN OF OGUNQUIT – 124 Beach Street – Map 7 Block 132 – SGD1. Design Review for expansion and renovation of existing bath house with reconfiguration of parking and drive aisles. MACLEOD/BEVINS 5:0 UNANIMOUS

At this time the Board reviewed the Site Plan Review Application Approval Checklist as outlined in Section 6.7 of the Ogunquit Zoning Ordinance.

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

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

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

Mr. Heyland confirmed that it had.

At this time the Board reviewed the Site Plan Review Application Approval Checklist as outlined in Section 6.5 of the Ogunquit Zoning Ordinance.

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

The Board unanimously agreed that it will; there will be no impact on adjacent properties because all changes will extend into Town property.

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

The Board unanimously agreed that it will not, because the proposed changes will improve the safety and health of the Town because of the new bathroom facilities.

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 will be no addition to traffic volume or patterns.

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, because of input from the Sewer District; and because of the proposed changes to the walkway to ensure flood water is channeled into an existing basin.

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

The Board unanimously agreed that it will not, because of the use of mechanical ventilation.

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

The Board unanimously agreed that it will not, because of the use of dark sky lighting; and because of the use of mechanical ventilation.

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 it will not, because it will improve the use of the public bathrooms; and there will be minimal impact on parking.

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

The Board unanimously agreed that this standard is not applicable because there is no parking requirement for this application.

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 police and fire departments have reviewed and signed off on the proposal.

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

The Board unanimously agreed that this standard is not applicable because there are no adjacent historical properties.

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, per the submitted site plan and the proposed improvement of the traffic flow around the building.

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

The Board unanimously agreed that this standard is not applicable because there is no buffering requirement for this application.

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 this standard is not applicable because there is no landscaping requirement for this application; and because the stormwater has been addressed in a previous standard.

14. Will provide for adequate pedestrian circulation.

The Board unanimously agreed that it will, because of the ten foot pedestrian walkway which will separate it from the parking area and traffic flow.

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

The Board unanimously agreed that it will, because of the plans for the pedestrian traffic and parking, and the needs of the Life Guards have been taken into consideration.

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

The Board unanimously agreed that it does, because it satisfied all of the above-noted 15 standards.

Mr. MacLeod Moved to Approve the application for TOWN OF OGUNQUIT – 124 Beach Street – Map 7 Block 132 – SGD1. Site Plan Review for expansion and renovation of existing bath house with reconfiguration of parking and drive aisles.
MACLEOD/BEVINS 5:0 UNANIMOUS

3. REDWOOD RESORTS LLC / COLONIAL VILLAGE RESORT – 548 Main Street – Map 9 Block 85-86 – SLC. Site Plan Review Application for replacement of existing collapsed seawall.

Brandon Binette addressed the Board as the Applicant's representative. Mr. Binette informed the Board that he has been in contact with the Department of Marine Resources (DMR) regarding the Activity Dates on their permit. They agreed that they can change those dates to be the same as the Inland Fisheries and Wildlife (INW) Permit. They agreed that since the permit was already approved they can change the dates, which could be a condition of approval.

Responding to abutter questions from the Site Visit. Mr. Binette confirmed that the length of the new wall will be approximately 250 feet. Construction equipment will utilize the grassy area

where the walkway is located. Everything will be done on the upland embankment; and nothing will be done on the water.

Mr. Heyland noted that copies of the application were submitted to the Harbor Master and Shellfish Commission, neither of which responded.

Mr. Heyland asked about the sewer manhole near the construction area.

Mr. Binette responded that he has not spoken to the Sewer District. He confirmed that Dig Safe will be out to the site to mark the area prior to the beginning of construction.

Mr. MacLeod asked about the use of temporary seasonal docks.

Mr. Binette responded that the dock is about 10 feet long; and that there will be no changes to the temporary seasonal dock which has been removed for the winter.

At this time the Board reviewed the Site Plan Review Application Approval Checklist as outlined in Section 6.7 of the Ogunquit Zoning Ordinance.

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

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

Has the application been reviewed by the OHPC?

Mr. Wilkos noted that it had not because it does not involve a pre 1931 structure.

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

Mr. Heyland confirmed that it has.

At this time the Board reviewed the Site Plan Review Application Approval Checklist as outlined in Section 6.5 of the Ogunquit Zoning Ordinance.

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

The Board unanimously agreed that it will, because the applicant is restoring the wall to its original condition.

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

The Board unanimously agreed that it will not, because it is a one-for-one replacement.

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

The Board unanimously agreed that this standard is not applicable because there will be no vehicular traffic associated with this project.

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 this standard is not applicable because it only involves a Wall with no discharges.

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

The Board unanimously agreed that this standard is not applicable because it only involves a Wall with no discharges.

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

The Board unanimously agreed that this standard is not applicable because it only involves a Wall with no emissions.

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 it will not because it is restoring the original condition to a wall on the estuary.

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

The Board unanimously agreed that this standard is not applicable because there is no parking requirement for this project.

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 it will improve erosion in the estuary.

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

The Board unanimously agreed that it will, because the proposed wooden seawall will restore the wall to its original construction condition.

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 it will, because the location of the proposed structure is in the

same location as the original seawall.

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

The Board unanimously agreed that this standard is not applicable because there are no buffering requirements for this application.

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 this standard is not applicable because there are no landscaping requirements for this application.

14. Will provide for adequate pedestrian circulation.

The Board unanimously agreed that it will, because it will be a one-for-one replacement and because it will not interfere with the boat launch access road.

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

The Board unanimously agreed that it will, because if this project isn't done there is a danger of further erosion into the salt marsh.

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

The Board unanimously agreed that it does, because it satisfied all of the above-noted 15 standards.

Mr. MacLeod Moved to Approve the Application for REDWOOD RESORTS LLC / COLONIAL VILLAGE RESORT – 548 Main Street – Map 9 Block 85-86 – SLC. Site Plan Review Application for replacement of existing collapsed seawall, with the condition that there be no changes to the size of the existing seasonal dock on site.
MACLEOD/BEVINS 5:0 UNANIMOUS

4. DAVID GIARUSSO / ANGELINA'S – 655 Main Street – Map 13 Block 49 – GBD2 – Site Plan and Design Review to replace a 20'7.5"x27' three season canopy with a new 20'7.5" x22'6" four season framed structure. Height of 15'9" will not change.

Jerry DeHart from Coastal General Construction addressed the Board as the Applicant's representative.

Mr. DeHart gave a brief summary of the proposed project. He stated that the proposed new structure will look just like the structure that is there now; the new structure will be smaller and more compliant with Town Zoning Setback requirements than the existing structure; it is a simple replacement of the existing structure which has been in use since 2006 as an accessory building to the restaurant. Mr. DeHart confirmed that there will be no increase in seating.

Ms. Botsford stated that she now believes it was a mistake to grant the waiver for the submission of a standard boundary survey.

Mr. DeHart responded that the Board's protocol and the Ordinance allows for the submittal of waiver requests; which in this case the Board then granted. It is wrong for the Board to now go back and decide that the granting of this particular waiver, out of the last hundred waivers, was "not right". Mr. DeHart objected to the implication that this applicant got something that isn't offered to every other applicant.

Mr. DeHart added that at the last meeting the Chair stated that he would never vote to grant a waiver for a Survey.

Mr. MacLeod stated that he voted for the granting of the waiver, and does not think that the wavier was a mistake. He noted that he had never been to this site before; and upon seeing the site he was convinced that the existing patio and awning is not a structure/building. He stated that approval of the new structure involves the question of building lot coverage. As of now the Board doesn't know what the lot coverage is for this property. Without that knowledge he cannot vote to approve this application.

Mr. MacLeod added that after seeing the "patio" it appears to him that it was built as a brick patio which later had an awning added to it; and that it is not a "structure". He cannot grant an application for a new building without knowing the existing building coverage.

Mr. Wilkos read the definition of "patio" from the Zoning Ordinance:

> *"A floored, roofless and wall-less structure except that a patio which does not extend more than three inches above original ground level shall not be considered a structure nor shall it be subject to setback requirements (see also "Deck") except that, in the Shoreland Overlay District, patios as defined herein shall meet the setback requirements contained Table 703.1."*

Mr. Wilkos agreed; and added that upon visual inspection at this afternoon's Site Visit it was determined that it was not three inches above the ground.

Ms. Botsford read the definition of a Structure Outside of the Shoreland Zone:

> *"Anything constructed or erected, the use of which requires a fixed location on or in the ground, or an attachment to something having a fixed location on the ground, including buildings, commercial park rides and games, satellite receiving dishes, small wind energy systems, carports, decks, arbors, pergolas, and other building features. Outside of any Shoreland Zone, the following items shall be exempted from the definition of a structure: signs, sidewalks, walkways, heat pumps, emergency generators, fences, walls, flagpoles less than 35 feet in height, patios, driveways, and parking lots including accessory bumpers and wheel stops."*

She noted that according to this definition patios are excluded from being a "structure".

Mr. MacLeod added that allowing the "patio" to be built up to the lot-line suggests it was originally built as a patio and not a structure.

Ms. Cooper asked for confirmation that the foundation for the "patio" was a poured foundation under the bricks.

Mr. DeHart responded that there is a three inch cement foundation under a brick overlay; and it was built as an accessory use to the building.

Ms. Cooper added that after seeing the site she would call what she saw a "structure". She pointed out that in the corner of the area, next to where the trees start, there is a three inch cement structure visible; and that the bricks appear to be sitting on top of it.

Mr. DeHart reiterated that the brick seating area has been an accessory use to the restaurant since 2006.

Mr. MacLeod noted that he saw the same thing as Ms. Cooper, however he interpreted it as the remnants of a porch; and noted that it dropped down a few inches after about 4 or 5 feet from the corner of the building.

Ms. Cooper stated that she would consider the existing condition to be a structure.

Ms. Botsford asked Mr. DeHart if he is saying that the patio area is an accessory building; and if he would call it a subordinate building to the principal structure.

Mr. DeHart responded by reading the definition for Accessory Building or Structure as found in the Zoning Ordinance:

> *"A subordinate building or structure, which is incidental to the principal building. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure. Accessory Buildings or Structures shall meet all dimensional requirements of this Ordinance."*

Mr. Wilkos asked if Mr. DeHart is calling this a Building or a Structure.

Mr. DeHart responded that in 2006 the Code Enforcement Officer called it a structure. He added that the roof of the existing structure meets the Zoning Ordinance definition.

Ms. Botsford read the Zoning Ordinance definition of Roof:

> *"A permanent protective overhead exterior cover of a structure."*

Mr. DeHart stated that the roof is ridged and hasn't collapsed under the snow.

Ms. Botsford noted that no one has been able to find a 2006 Building Permit for the patio and awning.

Mr. Heyland confirmed that his office hasn't been able to locate a permit or a Design Review Certificate for the construction of the patio; however he did find a permit for the awning/tent over an existing patio.

Mr. MacLeod reiterated that because the patio was built all the way to the lot-line it indicates to him that, when it was built, it was not considered to be a structure; otherwise it would not have been allowed to be built into the setbacks. He believes it was built as a patio with an awning and not as a permanent structure. As a patio it would not count in the building lot coverage calculations but as a permanent structure it would. This is his issue, the Board doesn't know what the lot coverage is; and a survey would provide this information.

Ms. Freedman agreed with Mr. MacLeod that the Board needs a survey.

Ms. Bevins agreed.

Mr. Heyland asked what information the Board wants to get from a survey.

Mr. Wilkos responded "lot coverage".

Mr. Heyland added that he believes that the applicant is proceeding with this application based upon existing coverage numbers; and that he will continue to utilize that coverage. Mr. Heyland suggested that before the Board sends him off to get a survey they should determine whether the existing conditions at the site constitute "coverage" which the applicant can utilize as part of building coverage calculations.

Mr. Heyland suggested that a survey will state that the removal of the existing patio and the new proposed project will be a net sum for coverage. The Board should make a determination as to whether the existing condition raises to the level of building coverage.

Mr. Wilkos asked for the current building coverage.

Mr. Heyland and Mr. DeHart both responded that they do not know.

Mr. Heyland added that the Applicant sees the removal of the existing condition and the construction of the proposed work to be an equal trade off.

Mr. DeHart added that he sees it as a decrease in coverage.

Mr. Heyland again stated that it is up to the Board to determine whether the existing conditions meet the definition of building coverage. In GBD2 the maximum allowable building coverage is 30%.

Mr. DeHart stated that the current proposal is that:

- This part of the building is a permanent part of the main building; and is an accessory building;
- It is part of the coverage;
- They will be reducing coverage by about 100 square feet;
- They will be making the conditions more conforming by pulling back on the setbacks;
- There will be less building coverage.

Ms. Cooper proposed numbers of building coverage.

Mr. Heyland responded that the Board needs to look at the definition for Coverage, Building. He added that the Board can't use VISION to determine the total parcel area. VISION numbers are sometimes incorrect.

Ms. Botsford noted that there are no patio and awning permits; and lot coverage would be calculated by a survey engineer.

Ms. Cooper noted that an engineer could determine the elevation of the patio.

Mr. Heyland reiterated that the Board needs to look at the Zoning Ordinance Dimensional Table and the definition of "Coverage, Building".

Mr. MacLeod agreed that the Board needs to determine if the patio and awing constitutes a building under the Ordinance definition of "Building".

Ms. Botsford asked about parking.

Mr. Heyland responded that the parking and the parking layout would not be affected by this application; and parking is not relevant to this proposal. The current parking for this Applicant is predicated upon parking space availability on an adjacent parcel which is also owned by this applicant.

Ms. Botsford stated that the Board needs to be consistent with all the applicants; and she isn't interested in asking this applicant to do anything the Board doesn't require of every other applicant.

Mr. Heyland responded that when reviewing applications he goes through a list of submission requirements and determines what is applicable and what is not. He supports Mr. DeHart's assertion that parking plans are not applicable to this application.

Responding to Mr. MacLeod's comments, Mr. DeHart stated that there were no survey requirements in 2006 when the patio was put in.

Mr. MacLeod responded that there are survey requirements now. He added that he agreed to the waiver because he was under the impression that this was a building and counted in the existing building coverage. If that was the case then the lot coverage question is moot because it would be reduced with the proposed changes.

After the Site Visit he was convinced that the existing condition does not constitute a building and does not count as existing lot coverage. If the Board were to approve this application the lot coverage would be increased; before they can do that the Board needs a survey to give them the existing lot coverage amount.

Mr. Heyland stated again that the Board needs to determine whether or not the current building condition, as it now exists, constitutes Building Coverage that can be exchanged for a new structure.

Mr. Wilkos asked the Board members to consider if this is a patio, not a building and is not included in the existing building coverage. This application involves the addition of a new building. The Board needs to know the lot coverage; and the best way to get that information is with a survey.

Mr. Wilkos asked if the Board members want a survey:

Mr. MacLeod = yes
Ms. Botsford = yes
Ms. Cooper = no because they already know the conditions are non-conforming and they can get a general idea of how much of the lot is covered without a survey. What she needs to know is if the patio is 3" above the level of the building.
Ms. Freedman = yes
Ms. Bevins = yes

Mr. Heyland responded that a survey will probably say that the existing conditions are included in the lot coverage. He reiterated that the Board needs to collectively make a decision as to whether or not the existing condition is "Building Coverage".

Mr. Wilkos asked what this applicant would have to do if there was nothing on site.

Mr. Heyland responded that the applicant would need to show what the existing coverage is; and what the new coverage would be with an approved application; and it would need to meet the 30% Building Coverage restriction. He added that the Board seems to be missing the primary point which is a determination of what the existing conditions are.

Mr. MacLeod added that if the Board determined that the existing patio is not a building then from a building coverage perspective it doesn't exist and would be the same is if there was nothing on site. He noted that there is an existing permit which was issued to place an awning over an existing patio. He stated that if the current conditions are nonconforming and the Board approves this application they would be allowing the Applicant to exacerbate that nonconformity. It seems clear that the Board cannot make a determination about the status of the existing building coverage without a survey.

It was noted that a building is different from a structure with regard to definitions as noted in the Zoning Ordinance.

Mr. Wilkos asked the Board members if they believe the current conditions are building coverage as defined in the Zoning Ordinance Definitions Article 2 as Coverage, Building:

Ms. Botsford = no
Mr. MacLeod = no
Ms. Bevins = yes
Ms. Freedman = yes
Ms. Cooper = yes
Mr. Wilkos = no

Mr. MacLeod suggested that there are two options:

- Deny the application;
- Table the application discussion pending submission of a Standard Boundary Survey.

Mr. MacLeod Postpone to Table the Application for DAVID GIARUSSO / ANGELINA'S – 655 Main Street – Map 13 Block 49 – GBD2 – Site Plan and Design Review to replace a 20'7.5"x27' three season canopy with a new 20'7.5" x22'6" four season framed structure; Height of 15'9" will not change. Application tabled due to a lack of information regarding Building Coverage. Application tabled until the Applicant submits a Standard Boundary Survey prepared by a Certified Engineer.
MACLEOD/BOTSFORD 5:0 UNANIMOUS

G. <u>NEW BUSINESS</u> –

1. DICAMILLO ASSOC. LLC/ GRASSHOPPER INN – 2 Grasshopper Lane – Map 8 Block 40 – GBD2 – Application to Amend Previously Approved Site Plan and Design Review (Approved on 4-8-19).

Request to:
1) Extend the length of retaining wall along the south property line;
2) Replace Red Maple Trees with a wood guard rail located between post lights, and add additional shrubs;
3) Reconfigure parking layout and move ADA Parking Space to the building's front entrance.

Chris Vance addressed the Board as the Applicant's representative. Mr. Vance provided a brief overview of the proposed project.

Mr. MacLeod asked if abutters to the south will be able to see the retaining wall.

Mr. Vance responded that they will see a small portion of it.

Mr. MacLeod asked if the changes will have any impact on drainage to the south.

Mr. Vance responded that there will be no impact.

Mr. Heyland asked if the buffering standards will be met.

Mr. Vance responded that they will

Mr. Wilkos noted that a Public Hearing will be held on November 25, 2019 at 6:00 p.m.

The Board determined that a Site Visit would be helpful and one was scheduled to take place on November 25, 2019 at 3:30.

Mr. MacLeod Moved to postpone this application to November 25, 2019.
MACLEOD/BOTSFORD 5:0 UNANIMOUS

H. <u>CODE ENFORCEMENT OFFICER BUSINESS</u> –

Mr. Heyland noted that the Zoning Board of Appeals will hear two applications on December 12, 2019.

I. OTHER BUSINESS –

1. Discussion regarding future traffic study of Ogunquit failed intersections.

It was noted that the Town does not have a confirmed list of failed intersections.

Mr. Wilkos asked if the Town should pay for a study or if applicants coming before the Board should pay for individual studies as they come up.

Mr. MacLeod suggested that it may be best to look at this issue beyond a study of failed intersections but also ask for input from a traffic engineer about how the Town might mediate the intersections during the summer months when they are at peak volume. He suggested the Town may put it to the voters as a CIP item for a traffic study; and ask how the Town may mitigate the issues in the long term.

Ms. Botsford suggested that would make sense, particularly as part of the Comprehensive Plan review; and she suggested putting the issue before the Select Board.

Mr. Wilkos added that any study would be a few years out; and he asked about current and new applications which come before the Board.

Ms. Freedman asked if there are any failed intersections in Town.

Mr. Heyland responded that he does not know for sure. He noted that eight years ago there probably was a traffic study involving the Berwick Road Hallett Subdivision. He added that whatever the status of that intersection eight years ago, current conditions have probably changed since then.

Ms. Cooper suggested there are two issues:

- Long range plans;
- Short term plans regarding pending Planning Board Applications.

She noted that there must have been a Law Court Decision in the Hallett case; and she asked if that case could be used to show that the Town has failed intersections.

Mr. Heyland responded that the Town Attorney has stated that the Board can't use older court cases when looking at new applications. He also added that it is up to the applicant to prove that the intersection isn't failed, and if it is what he/she can do to mitigate the status of an intersection to improve it.

Mr. Wilkos agreed and added that they shouldn't use old traffic studies when looking at pending applications because conditions have changed over time.

Ms. Bevins stated that applicants should pay for traffic studies as they apply to individual applications.

The question was raised: if the Town pays for a comprehensive traffic study and certain intersections in town were determined to be failed; might the Ordinance have to be changed to reflect growth or building within a mile of those roads.

The Board agreed that long-term, the issue should be looked at by the Select Board and the Comprehensive Plan Committee; and short term, applicants will pay for specific traffic / intersection studies.

Mr. Heyland agreed to reach out to the Town Manager and the Select Board.

Ms. Freedman asked if there was a one mile standard regarding failed intersections.

Mr. Heyland responded that the Ordinance states that applicants may not do anything which requires Site Plan Review, or review for a new Subdivision, within one mile of a failed intersection which will make that failed intersection worse. Applicant's need to tell the Board if there are any failed intersections within one mile of their project and if so how they will mitigate the increase in traffic at those intersections resulting from their project. This is done with a traffic study report prepared by a professional traffic engineer.

Ms. Freedman asked what happened to all these traffic studies.

Mr. Heyland responded that every application is different and needs to be looked at individually; which is why it's almost better to have the applicants produce a current traffic study.

Ms. Botsford noted that the high traffic "season" has expanded over the last few years and "the season" is longer than it was. It now lasts through Christmas; and there is a lot of traffic for almost six to eight months.

J. <u>ADJOURNMENT</u> –

Mr. MacLeod Moved to Adjourn at 8:25 p.m.
MACLEOD/BOTSFORD 5:0 UNANIMOUS

Respectfully Submitted
Maryann Stacy
Maryann Stacy
Town of Ogunquit
Planning Board Recording Secretary

Minutes Approved on November 25, 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.*