



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
MAY 26, 2020
ONLINE VIA ZOOM**

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)

Also Present: Scott Heyland, Code Enforcement Officer

Mr. Wilkos noted that for each motion Board Members would vote yea or nea verbally.

B. PLEDGE OF ALLEGIANCE -

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

D. MINUTES – March 9, 2020

**Mr. MacLeod Moved to Accept the Minutes from the March 9, 2020 Meeting as Submitted.
MACLEOD/FREEDMAN 5:0 UNANIMOUS**

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

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

F. UNFINISHED BUSINESS –

**1. PUBLIC HEARING CONTINUATION FROM MARCH 9, 2020 MEETING:
COASTAL WINE OGUNQUIT / KATLYN MITSCH – 239 Shore Road – Map 5
Block 10-1 – LBD.**

Mr. Wilkos summarized that at the February 24, 2020 Meeting the Board found both the Site Plan and Design Review Applications Complete. The Board subsequently opened a Public Hearing on March 9, 2020. At the conclusion of the March 9, 2020 Meeting the Board kept the Public Hearing open and continued to this meeting.

Katlyn Mitsch addressed the Board and summarized her application proposal as submitted on February 7, 2020; as well as changes she subsequently made in response to abutter input. She reviewed her May 13, 2020 narrative to the Board (a copy of which will be maintained in the Applicant's Planning Board File).

Mr. Wilkos invited members of the public to be heard.

Scott Scherschel (240 Shore Road) noted that he is the abutter directly across the street. Mr. Scherschel expressed several concerns. He stated that this project is not a good fit for this neighborhood for a number of reasons (some of his concerns were outlined in a March 11, 2020 e-mail to the Board – a copy of which will be maintained in the applicant's Planning Board file).

He noted that the Applicant's proposal will not meet many standards outlined in the Ogunquit Zoning Ordinance (OZO).

Mr. Scherschel suggested that he does not believe the changes the Applicant has made adequately address the abutters many concerns:

Parking space count and location;
Required vegetative buffering;
Decrease in neighborhood property values.

He asked that the application for a change of use from Retail use to Type 2 Restaurant with outdoor seating be denied.

Gregory Long (240 Shore Road) echoed Mr. Scherschel's comments. He agreed that the proposed change of use is not appropriate to this neighborhood. He argued against the granting of a number waivers, which, he asserts, the Applicant will require for the proposed change of use to a Type 2 Restaurant.

Article 8.10 - Parking:

He agreed that there are some restaurants in Town with no parking; however he noted that these other restaurants are near to public parking lots.

Mr. Long also informed the Board that commercial delivery parking is already a problem in this neighborhood. Delivery trucks are currently parking illegally for this business; and it isn't even open yet.

Mr. Long argued that the proposed parking area will require vehicles to back out onto Shore Road which violates OZO parking lot standards. He added that the existing parking has been in place for a long time; however parking lots are not allowed in the front setback and now that this property has come under Site Plan Review he asked the Board to consider the legality of allowing this parking layout to remain under a new property use.

Article 8.16 - Dumpsters, Trash Containers, and Recyclables Containers - Setbacks & Screening:

Proposed location of trash containers will not meet setback requirements.

Article 8.3 – Buffer Areas:

Proposed paved buffer for parking of vehicles will violate OZO. He asserted that a 6' tall vegetative buffer will need to be planted along three sides of the property.

Article 6.6.B – Procedures for Site Plan Review:

Mr. Long asserted that allowing proposed outdoor seating in the front of the property equates to an expansion of the structure into the front setback. He noted that other restaurants in the area have outdoor seating; and they meet setback requirements by placing tables at least 20' back from front property lines.

Mr. Long stated that abutters have attempted to reach out to this applicant and have not received any satisfaction. He reminded the Board that all of the abutters around this property are in agreement in asking the Board to deny this application for a change of use to a Type 2 Restaurant with outdoor seating.

Mr. Long expressed additional concern that if the Board allows a Type 2 Restaurant to occupy this property and the Wine Bar fails, any type of restaurant or business could move into that location. Once the change of use is granted it stays with the property beyond this applicant.

He added that the abutters agree that they would welcome Coastal Wine as a retail use, however they do not want to see a Type 2 Restaurant with outdoor seating in use at this property. He asked the Board to deny the change of use request for a Type 2 Restaurant.

June Saraceno (241 Shore Road) is the closest abutter to the proposed business. She also echoed the concerns expressed by Mr. Long and Mr. Scherschel and asked for a survey of 239 Shore Road that will clearly delineate the location of setbacks. She also expressed concern that updated material was not posted on the Town Website well in advance of this meeting. She agreed that a retail use would be fine however as the closest abutter she does not want to see a restaurant with outdoor seating so close to her property.

Ms. Saraceno again asked for an official survey of the property at 239 Shore Road. She asked that the survey clearly show the setbacks. She noted that she has hired a surveyor to prepare a survey of the property line between her property and the Applicant's parcel; and that this surveyor will also place markers on the ground showing the property boundary location.

Stephen Fox (26 Dixons Run Road). Mr. Fox is not an abutter of the subject property however he has friends who are and he is often in that area. He agreed that a retail use of the property

would be a good fit and he agrees that a restaurant with outdoor seating would be intrusive and disruptive to the neighborhood.

Terry Lunt (58 Bournes Lane) expressed concern about an increase in foot traffic, noise, and trash which will be generated by a restaurant with outdoor seating. She is also concerned about future possible uses for this property if the Wine Bar should fail and the Applicant should sell the property.

Donald Wunder (66 Woodland Hills) spoke in favor of the application. He felt the proposed use for a small Type 2 Restaurant / Wine Bar is a good fit for this neighborhood.

Katlyn Mitsch responded to abutter comments. She stated that only 1/8 of the property is proposed for business use, the rest will be her personal residential use. She is a full time year round resident and 239 Shore Road will not only be her business; it will be her home.

She noted that the 260sf space in front of the property, which will be used for business use, does not directly abut residential property. The closest abutting residential property is the property to the left (235 Shore Road) and there is already a 15' setback with a stone wall, landscaping, and a fence in place.

She noted that the owners of 240 and 241 Shore Road use their properties as rental properties, which need to be registered as a business with the Town; and she assumes that when these properties are rented out guests are allowed to use the entire property.

Regarding deliveries, she has reached out to her retail distributors and asked them to abide by Town parking laws. It is her understanding that it is the responsibility of the police to ensure that parking and traffic laws are enforced.

Charles Wilson (235 Shore Road) is concerned about parking and trash. He noted that he has a hotel on the other side of him that causes him a lot of problems. He asked the Board to deny the application.

Gregory Long spoke again and stated that it is irrelevant that the applicant lives year round on site. The use would still be a commercial use.

Scott Scherschel spoke again and noted that his home rental is registered with the town.

June Saraceno spoke again and stated that she also rents her house; and she has decided not to rent this year.

Mr. Wilkos asked the Board members if they agree to leave the Public Hearing open while the Board enters into discussion; and to allow additional comments until it goes into deliberation.

**Mr. MacLeod Moved to continue the Public Hearing during Board discussion.
MACLEOD/BOTSFORD 4:1 (Ms. Bevins Dissenting).**

At this time the Board moved into discussion of the application.

Mr. Wilkos noted that the Planning Board is a quasi judicial board and the Board's responsibility is to apply, and abide by, the Ogunquit Zoning Ordinance.

Mr. Heyland noted that the Applicant's property is located in the Limited Business District (LBD); and a Type 2 Restaurant is an allowed use in that district. He added that the rules are a little stricter in the LBD.

Regarding the deliveries. There is nowhere on this property for delivery parking. He agreed that deliveries are not allowed in the front setback. The existing parking area couldn't take deliveries and comply with the ordinance. He suggested that a delivery vehicle could park down the street where there are legal parking spaces. This would be an example of how deliveries could comply. He agreed that police may ticket a vehicle that is parked illegally.

Regarding trash storage and removal. The Applicant would have to locate trash receptacles outside of the setbacks; or she might remove trash daily with no onsite storage. He noted that there are other businesses that remove trash daily where there is no trash storage.

Regarding waivers, the only waiver the Board needs to take action on at the moment is the request to waive required commercial parking. The other issues the abutters raised are things the Board will have to review, and make determinations on, under the approval checklist process. He agreed that they are concerns which need to be addressed, however they are not currently being considered as waivers.

Regarding the COVID19 concerns; any approval made would be outside of COVID19 guidelines. Of course, if she were to open, the Applicant would have to follow all COVID19 guidelines until such time as the current restrictions are lifted.

Regarding buffering: if the Applicant receives the requested parking waiver, by removing front commercial parking spaces the Applicant will bring the property into compliance because she will no longer be providing commercial parking in the front setback.

The most recent site plan submitted by the Applicant may need to be amended, and maybe replaced with a survey quality site plan.

Mr. MacLeod asked about the Anderson Livingston Survey. He agreed that the setbacks are not noted on the survey.

Mr. Heyland agreed that there is no setback or lot coverage noted on the survey. He added that lot coverage may not be pertinent if there is no expansion of structures.

Mr. MacLeod stated that trash stored in a container cannot be stored in the setbacks.

Mr. MacLeod stated that he has no problem waiving parking spaces however he expressed his concern with the off-street parking and loading; and the illegal parking of delivery trucks. He noted that the DBD has several designated loading zones; and there are no similar loading zone/spaces near the Applicant's property.

Mr. MacLeod also expressed concern about lighting.

Mr. Heyland noted that there are one-hour parking spaces next to the Applicant's property; however they are not always vacant and available when delivery trucks may need them.

Ms. Freedman asked about the drawing submitted by an abutter showing 6' vegetative buffers on three sides of the property. She also asked about trash receptacles; and photos of beer trucks submitted by an abutter.

Ms. Mitsch responded that she has already received her retail license from the state and she has begun to receive stock for retail sales.

She has sent letters to her distributors regarding the need for legal parking of delivery vehicles.

She agreed to move trash storage to the back of the property. She will only use residential style bins, no dumpsters.

She noted that there will be no change to the existing lighting.

Also, she has reached out to Patten Landscaping to discuss a 6' vegetative buffer on the "right". She did not submit the drawing Ms. Freedman referenced.

Mr. Aromando noted that there is also public parking on Ledge Road: 2 spaces by the park and 2 spaces on the corner of Shore Road and Ledge Road.

Ms. Cooper asked if there was a property marker on the ground for the property on the "right".

Ms. Mitsch responded that she has not been able to find it. She did find one on the left. She also has a surveyor coming to do a full survey, however there is a 30 day wait for the surveyor to come out.

Ms. Cooper asked if the Applicant has any research showing that the majority of her patrons will come on foot vs. from a vehicle.

Ms. Mitsch responded that she has not done any research. However due to the existing foot traffic, the proximity of trolley stops and Perkins Parking Lot, and because of her location half way between Perkins Cove and the center of Ogunquit, she believes that most of her customers will be foot driven. Like any other business, if patrons have to wait for a seat they may have to move along.

Regarding her signage; she will submit a permit application to the Code Office. The new sign will be within the existing posts.

Regarding lighting. She only sees using the outside seating during summer months when it is light out into the evening.

Ms. Botsford asked about getting dimension plans regarding the buffers. She also asked if the Board has the authority to grant a waiver for buffering.

Mr. Heyland responded that the Board does not have the authority to reduce setback requirements.

Ms. Botsford stressed that if the Board cannot reduce buffering standards then the question of setback locations becomes even more important and the Board really needs a good survey/site plan.

Mr. MacLeod asked about an abutter's comment that Type 2 Restaurant seating cannot be in the front setback. He noted that he can't find that language in the Zoning Ordinance.

Mr. Heyland responded that he can't find it either. The only section he might look is 8.3 buffering or 8.2 parking. However he was unable to find language that prohibits tables in the front setback.

Ms. Bevins stated that she believes the Applicant has worked to try and please the abutters. She travels Shore Road multiple times a day and doesn't see a parking problem at this location.

Mr. Aromando agreed that he couldn't find any restrictions about seating in the front setbacks. He also asked for confirmation that the only waiver consideration before the Board is for commercial parking spaces. Everything else will have to be dealt with by meeting the Ordinance requirements. The proposal will either meet the OZO standards and be approved, or it won't and it will fail.

Mr. Heyland agreed; and added that the Board will eventually have lengthy discussions to ensure that the proposal meets all of the standards.

Mr. Wilkos informed the Applicant that there are a few things the Board wants from her:

She needs to obtain a professional survey that clearly lays out: property boundaries, setbacks, and outside trash receptacle location. It needs to be very detailed. Also, the corners of the property need to be pinned on the ground.

Ms. Mitsch agreed and added that she has already scheduled a surveyor. They cannot come out for 30 to 34 days. She will be in touch with the Board when she is ready to come back before them.

Ms. Bevins added that there are five public parking spaces on Stearns Road.

Mr. MacLeod again stated that he has no problem waiving customer parking however he expressed continued concern about pedestrian safety with regard to delivery parking; and asked if there were any loading zones in the LBD.

Mr. Heyland responded that he is unaware of any; and obviously the Applicant will have to provide some answers. He added that the Board may waive all the commercial parking however it cannot waive the two required residential parking spaces.

Mr. Aromando pointed out that any granted waivers go with the property, not the applicant; and stay with the property if the current owner transfers the property to someone else.

Mr. MacLeod noted that the Board has granted commercial parking space waivers before.

Ms. Cooper added that she is also concerned about delivery parking; and she would like to see some research that supports the Applicant's assertion that most of her patrons would be pedestrian traffic.

The Board members all agreed that there is an issue with delivery parking at this location. It was suggested that the Applicant may need a Variance from the ZBA.

Mr. Heyland responded that Under 8.10.8 the Planning Board may reduce the requirements of the section, which includes parking for loading and deliveries. The ZBA only relaxes dimensional setbacks, it does not deal with standards, that's the Planning Board's jurisdiction.

Mr. MacLeod Moved to Grant a Waiver for COASTAL WINE OGUNQUIT / KATLYN MITSCH – 239 Shore Road – Map 5 Block 10-1 – LBD to reduce six commercial parking spaces down to zero based upon Article 8.10.D.8.a, b, and c -Off-street Parking Standards of the Ogunquit Zoning Ordinance.

MACLEOD/BEVINS 5:0 UNANIMOUS

Mr. Wilkos asked if there were any abutters who wished to be heard.

Charles Wilson (235 Shore Road) expressed frustration that the Board is losing community aspect of where people live. He noted that the abutters have clearly stated that they don't want this business in their neighborhood; and they have a problem with outside activities. He noted that he already has a hotel on the other side of him that causes disruption in the neighborhood and having a Type 2 Restaurant with outside seating will only make matters worse.

Gregory Long stated that:

- Abutters want 6' tall vegetative buffers on three sides of the property;
- Shore Road parking spaces are always full and won't be available for delivery parking;
- Cars are already parking on the sidewalk and it will only get worse with this new business;
- Article 6.6.B Procedures for Site Plan Review state that outside seating is part of the structure and needs to meet the front setback.

Scott Scherschel agreed with Mr. Long and Mr. Wilson that a Type 2 Restaurant will be detrimental to the neighborhood.

Mr. Wilkos reviewed several "chat comments" .

Mr. MacLeod Moved to Close the Public Hearing for COASTAL WINE OGUNQUIT / KATLYN MITSCH – 239 Shore Road – Map 5 Block 10-1 – LBD.
MACLEOD/FREEDMAN 0:5 MOTION FAILED

Mr. MacLeod Moved to postpone the Application for COASTAL WINE OGUNQUIT / KATLYN MITSCH – 239 Shore Road – Map 5 Block 10-1 – LBD pending receipt of the requested survey; and to leave the Public Hearing open.
MACLEOD/FREEDMAN 5:0 UNANIMOUS

G. NEW BUSINESS –

- 1. ASHTON ARMS LLC – 123 Riverbank Road – Tax Map 9 Block 69 – SLR/RP. Extension of Planning Board Approval Granted on April 8, 2019. Said Approval to expire on April 8, 2020. Applicant requests an extension to begin work.**

Mr. MacLeod Moved to Grant a one year extension to commence construction, under Article 6.5.E, from April 8, 2020 to April 8, 2021.

MACLEOD/FREEDMAN 5:0 UNANIMOUS

- 2. JACQUELINE BEVINS – CORNER CAFÉ - 95 Perkins Cove Road #A – Tax Map 3 Block 67-2- A – SGD2. Design Review Application for a pre 1930 structure. Application to replace two front windows.**

As the applicant, Ms. Bevins recused herself from the meeting; and Ms. Cooper was moved to full voting member status for the duration of this Hearing.

Michelle Charpentier addressed the Board as the Applicant’s representative. She summarized that the proposal is to replace two crank out windows with two up and down style windows.

Mr. Wilkos reviewed the Ogunquit Historic Preservation Commission’s Meeting Minutes from their March 11, 2020 Meeting wherein they granted the Applicant a Certificate of Appropriateness.

Mr. MacLeod noted that the Ogunquit Zoning Ordinance (OZO) was amended to allow for take-out windows for restaurants in Perkins Cove. He asked if the proposal will change the business from a Type 3 to a Type 4 Restaurant when she adds a take-out window.

Mr. Heyland responded that this application is only for Design Review for window replacement; not for take-out use. The Applicant will have to come back before the Board for a Change of Use when she wants to begin using the take-out window.

Mr. Wilkos asked if the Board members would like a Site Visit or a Public Hearing. The Board unanimously agreed that they did not want either.

Mr. MacLeod Moved to find the application complete for JACQUELINE BEVINS – CORNER CAFÉ - 95 Perkins Cove Road #A – Tax Map 3 Block 67-2- A – SGD2. Design Review Application for a pre 1930 structure. Application to replace two front windows. MACLEOD/BOTSFORD 5:0 UNANIMOUS

At this time the Board reviewed the Design Review Approval Checklist regarding Article 11.7.C of the Ogunquit Zoning Ordinance:

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

The Board agreed that it did and that it had been reviewed by the OHPC on March 11, 2020.

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 this standard does not apply because there will be no change to the scale of the buildings.

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 does not apply because there will be no change to the height of the building.

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; and there will be no change to the front facade.

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; and that the changes are minimal and there will be no change to the window size.

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; and that the changes are minimal and there will be no change to the window size.

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 this standard does not apply because there will be no change to the shape of the roof.

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

The Board unanimously agreed that this standard does not apply because there will be no change to the relationship of façade materials

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 does not apply because there will be no change to Relationship of Spaces to Buildings on the Street.

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 does not apply because there will be no change to the Site Features.

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 it will because of the OHPC Certificate of Appropriateness.

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

It was determined that it did not because this project does not involve public infrastructure.

Mr. MacLeod Moved to Approve the Application for JACQUELINE BEVINS – CORNER CAFÉ - 95 Perkins Cove Road #A – Tax Map 3 Block 67-2-A – SGD2. Design Review Application for a pre 1930 structure. Application to replace two front windows. MACLEOD/FREEDMAN 5:0 UNANIMOUS

Ms. Bevins rejoined the Board and Ms. Cooper moved back to Alternate status.

H. CODE ENFORCEMENT OFFICER BUSINESS – None

I. OTHER BUSINESS –

1. Review Proposed Amendments to the Ogunquit Subdivision Regulations.

Mr. MacLeod noted several items which needed to be corrected:

Article 3 Definitions – 3.1 correct the numbering where items were crossed through.

Article 5.3.3 and 4 “Board” should be changed to Planning Board

Article 6.1.2 same thing

Article 7.1.3 same thing

Article 9.6.7 numbering

Ms. Cooper asked if two items had been corrected:

Article 5 3.1 Exception spelling corrected? YES

Article-1-4 Public Works Director capitalized? YES

Ms. Freedman Moved to submit Proposed Amendments to the Ogunquit Subdivision Regulations to the Select Board with a request that it be included on the November 2020 Town Warrant.

FREEDMAN/BEVINS 5:0 UNANIMOUS

J. ADJOURNMENT –

**Ms. Freedman Moved to Adjourn at 9:19 p.m.
FREEDMAN/BOTSFORD**

Respectfully Submitted

Maryann Stacy

Maryann Stacy

Town of Ogunquit

Planning Board Recording Secretary

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.*

Accepted: June 22, 2020