

**OGUNQUIT PLANNING BOARD MINUTES  
PUBLIC HEARINGS and REGULAR BUSINESS MEETING  
APRIL 11, 2011**

**Mr. Hokans Moved to Excuse Mr. Yurko, who has recused himself from hearing the Application for 98 Provence Bistro / Everett Mink – 262 Shore Road – Map 5 Lot 28.  
HOKANS/CAPONE 4/0 UNANIMOUS**

**PUBLIC HEARINGS**

**1. 98 PROVENCE BISTRO / EVERETT MINK – 262 Shore Road – Map 5 Lot 28.**

Carol Morrisette, the Applicant's representative from Caleb Johnson Architects, addressed the Board and gave a brief overview of the proposed project. This project involves a renovation and significant addition. One of the Applicant's primary concerns is the preservation of the quaint character of the property. There will be a significant increase in seating capacity by utilizing the existing second floor and in the construction of a single story addition to the rear of the restaurant. The plan also involves significant site issues, specifically vegetative buffering of this property from adjacent properties.

Walter Mello (270 Meadowlark Village #200) addressed the Board. Mr. Mello is the President of the Meadowlark Owners Association. The Meadowlark Association has had several meetings with, and without, the Applicant's representative. Many of their concerns have already been addressed however there are a few issues which the Association would like to see made a part of this record:

Regarding drainage – Meadowlark Village already struggles with a drainage problem and they do not want to see this exacerbated by the work being done at 262 Shore Road. The Association met with Mr. Mink and his engineer and Mr. Mink agreed to fund a peer review of his proposed drainage plans. Mr. Mello will locate an appropriate engineer and make arrangements for the peer review. Mr. Mink has also agreed to put an additional three feet (3') of crushed gravel under the drainage system, and lastly Mr. Mink has agreed to have a perk test done under the area where the drainage system is to be located, to see what the soil can handle. The Association feels that positive action on these three things will produce acceptable results.

Regarding noise and light pollution – the Association is satisfied with the proposed plans to address the light issue. The Provence lights will be shaded and directed downward into the parking lot, they will also plant sufficient vegetative buffers (one hundred 6'x4' shrubs around the property perimeter) to block vehicle lights. Noise is a more significant concern to the residents at Meadowlark. Mr. Mink has agreed to use soundproofing material in the piano bar area, and to put in writing that the management will maintain a noise level which is deemed "not disturbing from a neighbor's perspective".

Richard Yurko (254 Shore Road) addressed the Board. Mr. Yurko noted that his partner Rob Leary, who was unable to attend this meeting, had submitted a letter to the Board (*a copy of which will be maintained in the Applicant's file*). Mr. Yurko commended the Applicant for his cooperation with Meadowlark Village and his willingness to satisfy their concerns. However Mr. Yurko suggested that this will not resolve the impact this project will have on the neighborhood.

Mr. Yurko summarized that currently 262 Shore Road supports a four bedroom home which, for the last twelve years has been used as a 55 seat French bistro, with a six seat bar. Mr. Mink's proposed renovations will triple the number of seats in the restaurant, and quadruple the number of seats in the bar. In addition, the restaurant will now serve breakfast, lunch, and dinner and will extend the hours of operation until 1:00 a.m. As a next door neighbor, these changes concern Mr. Yurko in the nature of: scale, intensity, and particularly traffic.

Mr. Yurko reminded everyone that this property is located in the Limited Business District, not the Downtown or Perkins Cove Districts. Mr. Mink has declined to provide an estimate of the number of vehicle trips generated, per day, caused by the increase in the size and use of the property.

Mr. Yurko reminded the Board that the Planning Board required the Town to estimate the number of vehicle trips when it proposed putting fuel tanks at the Transfer Station on Berwick Road. Mr. Mink's addition will create a 150 seat restaurant, 24 seat bar, which will be open from 7:00 a.m. to 1:00 a.m. and is likely to dramatically increase the vehicle trips to the site. The Ogunquit Zoning Ordinance, Section 8.13.3 states that:

*"If the volume capacity ratio of the existing street giving access to the proposed development already exceeds 0.8, or the level of service of streets or nearby intersections leading to the proposed project are already at "D" or below, the application shall be denied unless the applicant can improve the street or intersection capacities or level of service so that no further diminution of the level of service will occur, should the project be constructed."*

Mr. Yurko suggested that there is no road in Ogunquit, which is more congested during the summer months, than Shore Road. He reminded everyone that the traffic on Shore Road is regularly backed up to Bourne Lane, and that the intersection of Bourne Lane and Shore Road is less than 100' from this property. He also suggested that every intersection between Bourne Lane and the center of town are failed intersections, and that Shore Road can not currently accommodate the cars which use it, and tripling of anything on Shore Road will have an immediate impact on congestion.

Mr. Yurko reminded everyone that one decision of the Planning Board has already been rejected once by the Superior Court when the Board did not observe Section 8 of the Zoning Ordinance. The Superior Court reminded the Town that it must follow the words of the Ordinance. Mr. Yurko suggested that the Board can not approve this plan without a traffic impact study which shows how many vehicle trips will occur in a day and what the impact on traffic will be.

Mr. Yurko's next concern involves the proposed parking lot layout. As the site exists now, all vehicles enter and exit by way of the south driveway. The north driveway as currently used as a parking area for restaurant staff. This makes it impossible to utilize the north driveway until after hours when the staff has gone. The proposed new driveway configuration involves paving of the entire driveway and parking area, both of which are currently covered with gravel. The new plan is for vehicles to enter through the south driveway and exit through the north driveway, making a U-turn around the building. Mr. Yurko is concerned because his home is 20' from the north driveway. He also noted that the north driveway exits directly into the intersection of Ledge and Shore Roads. Mr. Yurko noted that if the Applicant was asking to put in a curb cut in this same location the Board would be required to deny him because the Zoning Ordinance requires a minimum distance between a driveway and an intersection. Mr. Yurko suggested that the north driveway is currently not utilized as an entrance because a driveway that enters directly into an intersection and a crosswalk is a safety hazard.

Mr. Yurko informed the Board that he spoke to the Applicant regarding his (Mr. Yurko's) concern about the sweep of headlights into his residence. Currently he sees no headlights because the staff arrives

during daylight hours and when they leave the vehicles are already headed out. With the proposed plan he will see headlights in his dining room and deck from dusk to 1:00 a.m. Mr. Yurko proposed that the solution is to have the entrance at the north driveway and the exit at the south driveway.

Paul Hazeltine, the previous owner of 262 Shore Road, addressed the Board. Mr. Hazeltine disagreed with Mr. Yurko's suggestion to reverse the entrance and exit, suggesting that it would only increase traffic on Shore Road. He noted that the staff parked in the north driveway because there wasn't enough parking in the primary lot, not because the use of the north drive was a safety hazard. He also noted that the staff frequently parked towards Mr. Yurko's property and there is no way they could have left work at 11:30 p.m. and not shown their headlights onto Mr. Yurko's property. The proposed plan calls for a vegetative buffer or a fence which would eliminate the sweep of headlights regardless of the traffic pattern.

Mr. Pinkham asked if there was anyone else who wished to be heard. There was no one and the Public Hearing was closed at 6:25 p.m.

## **2. 82 SHORE ROAD, LLC/WILD BLUEBERRY – 82 Shore Road – Map 6 Lot 67.**

Kevin Keiler, Brady Built Sunrooms, addressed the Board as the Applicant's representative. Mr. Keiler submitted paperwork in support of the Applicant's parking waiver. He also submitted photographs of other restaurants which have used his sunroom. Mr. Keiler noted that he attended a meeting with the Ogunquit Historic Preservation Commission on April 6, 2011. At that meeting the OHPC confirmed that they have no problem with the concept of enclosing the porch, however they did not feel that the curved glass of the proposed sunroom was appropriate for a historic structure. Mr. Keiler pointed out that this particular structure has had so many renovations over the years that there is nothing "historic" left of it. He also pointed out that this building has no historical significance, it has no relation to any historic landmark, and it doesn't look anything like it did when it was built. In addition the building is not located in a "historic neighborhood". The Applicant, believing the building to be a plain looking building, hoped to do something "spectacular" to improve the look of the property. She believes that the curved glass with the exposed wooden beams was the best choice.

Don Simpson, Chair of the Ogunquit Historic Preservation Commission, addressed the Board. He noted that the Brady Built Sunroom is an attractive structure, it is also a modular building which will be brought to the site partially built. Mr. Simpson noted that when this building was built these sunrooms were not in existence. He disagreed with Mr. Keiler's argument that because a building has had multiple renovations and no longer exactly resembles its original appearance it is no longer historically significant. The OHPC feels that this particular style sunroom is not appropriate to this particular building. They suggested a "shed roof" for the porch because that is the roofline of the existing building. Mr. Simpson informed the Board that the OHPC is very sensitive to the timeliness of this project. He noted that the application was submitted on March 9<sup>th</sup> and they met on March 14<sup>th</sup> and submitted a first response very quickly. In the end the OHPC is still opposed to the plan as submitted.

Mr. Pinkham asked if there was anyone else who wished to be heard. There was no one and the Public Hearing was closed at 6:35 p.m.

## **REGULAR BUSINESS MEETING**

### **A. ROLL CALL –**

The roll was called with the following results:

Members Present: Tim Pinkham, Chairperson  
Richard Yurko, Vice Chairperson  
Hank Hokans  
Greg Titman  
Craig Capone

Mr. Yurko made note that he was a sitting Board member during the Public Hearing for 82 SHORE ROAD, LLC/WILD BLUEBERRY – 82 Shore Road – Map 6 Lot 67, however he recused himself and sat in the audience for the public hearing for 98 PROVENCE BISTRO / EVERETT MINK – 262 Shore Road – Map 5 Lot 28.

**B. MISSION STATEMENT** - The Mission Statement was read into the record by Mr. Capone.

**C. MINUTES – March 28, 2011 Public Hearings and Regular Business Meeting.**

**Mr. Yurko Moved to Accept the Minutes of the March 28, 2011 Meeting as Amended.  
YURKO/HOKANS 5/0 UNANIMOUS**

**D. PUBLIC INPUT** – None

**E. UNFINISHED BUSINESS** –

**1. ACCEPTANCE OF FINDINGS OF FACT FOR:  
KENNEBUNK SAVINGS BANK – 142 Main Street – Map 6 Lot 24-25.  
Approved on March 28, 2011**

**The Findings of Fact for Kennebunk Savings Bank – 142 Main Street – Map 6 Lot 24-25 were accepted as Submitted.**

**2. 98 PROVENCE BISTRO / EVERETT MINK – 262 Shore Road – Map 5 Lot 28 – Site Plan Review and Design Review for a 1930 structure. Application for interior renovations to replace windows, expand dining capacity and kitchen area, improve fire safety and ADA requirements, expansion of parking area, improvement of drainage, landscaping and abutter buffering.**

Mr. Pinkham noted that a Public Hearing was held earlier this evening and the public was given the opportunity to express their concerns and comments.

Carol Morrissette addressed the Board. Ms. Morrissette noted that from the beginning they have attempted to present a project which meets all of the zoning requirements. They have also attempted to work with the neighbors to maintain a good project which is good for Ogunquit. One of their primary concerns is to maintain the scale of the building. She noted that none of the new rooflines will overpower the existing house or barn. They have attempted to conform to historic precedent of farmhouses which expanded by adding smaller and smaller additions over time.

Another concern of the Applicant is to provide effective and attractive buffering to protect the abutters while maintaining an attractive and appropriate landscape. The Applicant has been very responsive to the concerns of the neighbors with regard to buffering to protect them from excessive noise and light. New lighting has been added for safety purposes and all of the lights will have full cutoffs illuminating only what is beneath them. This will protect the neighbors from any spotlight effect.

Ms. Morrisette confirmed that the proposed plan calls for an increase in the dining capacity by utilizing the existing second floor, it also incorporates larger bathrooms for ADA accessibility. They will utilize existing materials such as wood siding and windows.

Mr. Hokans suggested the Board and the neighbors should be given a peer review of the drainage plan.

Mr. Hokans asked if the applicant plans to incorporate sound proofing measures.

Ms. Morrisette responded that this has been their plan from the start. It is their intent to minimize the noise impact.

Mr. Hokans asked if the Applicant would be willing to have a traffic study done.

Ms. Morrisette agreed to have an engineer look at the issue of traffic impact.

Mr. Pinkham asked if there were other failed intersections in Town other than Berwick Road/Main Street. He suggested any traffic study look at the intersections between Bourne Lane and the center of town.

Mr. Hokans suggested the Board conduct a site visit.

Mr. Pinkham asked if the parking lot has been engineered and if the materials being used are pervious or impervious.

Ms. Morrisette confirmed that it has been engineered and that they will be using impervious materials. She agreed to discuss the use of pervious materials with the engineer.

Steve Blaze, Blaze Engineers, addressed the Board and noted that they chose to use impervious pavement for this project for several reasons: traffic volume and maintenance, and the slope of the site. The use of porous surface treatment would significantly increase the cost, and would also significantly change the drainage of the site.

Mr. Blaze pointed out that the plans call for an underground storm water storage system which is designed with an open bottom which sits on a bed of crushed stone. Anything in that area will infiltrate better than the vegetation that currently exists. This system was designed to meet all zoning requirements during peak flows leaving the property. The Applicant has also agreed to do a perk test to see how much the ground in that area is able to absorb. He noted that this system is designed to backup stormwater so that it would not increase peak flows on the abutting property.

Mr. Titman asked if there was any outflow pipe.

Mr. Blaze responded that the system outlets through an 8" pipe which allows the water to discharge slowly over time.

**Mr. Hokans Moved to Require a Peer Review of the proposed Drainage Plan.  
HOKANS/CAPONE 4/0 UNANIMOUS (Mr. Yurko recused)**

Mr. Pinkham asked Mr. Blaze if his firm also designed the parking lot, and if so if they considered changing the entrance and exit directions.

Mr. Blaze responded that they attempted to utilize existing conditions and that they are willing to have a traffic engineer take another look at the plan. They planned for appropriate isle and parking space width.

**Mr. Hokans Moved to Require a Traffic Study including entrance and exit locations for this project.**

**HOKANS/CAPONE 4/0 UNANIMOUS (Mr. Yurko recused)**

Mr. Titman asked about corrected parking calculations.

Mr. Lempicki responded that the parking calculations have been corrected, and the Applicant does not require any parking waivers.

Mr. Hokans noted that the documentation was given to the Board at this meeting which did not allow the members sufficient time to review everything.

Mr. Lempicki informed Ms. Morrisette that he, and the Board, had requested she provide a corrected parking plan and this has not been submitted.

Ms. Morrisette responded that the square footage numbers, related to parking, do meet code based on the square footage numbers on the site plan. She does however need to provide the Board with a plan based on the number of occupants.

Ms. Morrisette asked for clarification that the requested peer review is to review the drainage system.

Mr. Pinkham agreed.

Ms. Morrisette asked if a traffic engineer reviews the plan will it be acceptable based on his determinations. She noted that a traffic study would be a lengthy and expensive endeavor. She is agreeable to getting a traffic study if the traffic engineer recommends that one is needed.

Mr. Lempicki responded that the Board should review the Site Plan Review which states that an estimate of the amount and type of vehicle traffic to be generated on a daily basis, and at peak hours, is required. Also a traffic impact analysis prepared by a registered engineer or professional with experience in traffic engineering. It also says that a project requiring 40 or more parking spaces should determine the classification of the road, to determine whether or not it meets that requirement.

The Board scheduled a site visit to take place on Saturday April 23, 2011 at 10:00 a.m.

Mr. Titman asked about the dumpster.

Mr. Lempicki responded that it needs to be enclosed and it must be emptied.

Mr. Pinkham noted that this application will be tabled pending receipt of the required peer reviews and plans, as well as the completion of the site visit.

Ms. Morrisette asked the Board if there is anything else the Applicant needs to provide other than:

Drainage Peer Review Report

Traffic Study if the engineer recommends it based upon the classification of Shore Road

Occupant numbers

Mr. Capone asked for a floor plan indicating the use of areas which are used in the parking calculations.

Mr. Titman asked where the HVAC would be located.

Ms. Morrissette responded that there is no final design for all of the HVAC equipment. She noted that they may put some of the equipment in the back of the property or on the existing flat roof.

Mr. Lempicki asked about the sprinkler system.

Ms. Morrissette responded that the sprinkler system will be installed.

Mr. Blaze asked for a list of potential engineers for peer review.

Mr. Lempicki responded that he should contact his office for the list.

Ms. Morrissette noted that some abutters have raised the issue of an easement. This issue does not concern the Planning Board, however she wanted to put it on the record that the Applicant's attorney has informed them that the easement in question is correctly not shown on the plans, however the CMP Utility Easement is shown correctly.

**3. 82 SHORE ROAD, LLC/WILD BLUEBERRY – 82 Shore Road – Map 6 Lot 67 – Site Plan Review and Design Review for a pre 1930 structure. Application to enclose an existing 10'x2'x37'8" deck to be used for indoor dining. Requested Parking Waiver.**

Kevin Keiler, Brady Built Sunrooms, addressed the Board. Mr. Keiler informed the Board that he made every attempt to submit the parking waiver request in a timelier manner, however no one has been able to locate the paperwork for the 2003 Parking Waiver Approval of 23 parking spaces. He noted that the current Application is asking for an additional four parking space waivers. Mr. Keiler noted that the deck is currently used for seating however with approval of this application the Applicant will begin to serve food out there.

Mr. Keiler stated that there are several other locations in Town where similar sunrooms are in use: He noted that the Meadowmere has such a structure over the pool.

Mr. Titman suggested that this structure may not have any historical significance even though it was built before 1930.

**Mr. Yurko Moved to Approve the Request for a Parking Waiver of Four Spaces.  
YURKO/HOKANS 5/0 UNANIMOUS**

**Mr. Yurko Moved to Approve the Site Plan Review for 82 SHORE ROAD, LLC/WILD BLUEBERRY – 82 Shore Road – Map 6 Lot 67.  
YURKO/CAPONE 5/0 UNANIMOUS**

At this time the Board reviewed the Design Review Checklist and found several items of concern.

Mr. Yurko noted that some of the items on the checklist were unsatisfied, and he asked if this particular building holds any real historical significance, or was it simply built in 1930 rather than 1931.

Mr. Hokans responded that this building's appearance is not compatible with the proposed glass atrium.

Mr. Hokans Moved to Deny this Application because it does not meet the standards of Chapter 11 of the Zoning Ordinance.

Mr. Pinkham called for a second, then noted that the motion failed for lack of a second.

Mr. Yurko noted that given that so much of the addition is glass, its visual impact may be minimal.

Mr. Capone pointed out that one theory is that when one adds onto a historic building you intentionally make the additions very different to make it clear that it is not part of the original building, however Ogunquit's code does not seem to allow for this.

Mr. Titman agreed with Mr. Capone.

Mr. Yurko suggested that this building does not have any overly significant historic importance, it is situated in an architecturally diverse neighborhood, and the use of a primarily glass addition will lessen the impact.

Mr. Yurko Moved to Approve the Application for 82 SHORE ROAD, LLC/WILD BLUEBERRY – 82 Shore Road – Map 6 Lot 67.  
YURKO/TITMAN

Mr. Pinkham noted that the addition is not on the front of the building, it is on the side of the building facing a municipal section of town.

Mr. Hokans added that a large percentage of pedestrians walk by this addition as they enter and exit the parking area behind the Town Hall.

Mr. Capone expressed his position as falling in favor of the application because: this is clearly a new addition not part of the original building, it is located on the side of the building not the front, and the use of glass will allow a portion of the original structure to show through.

**Mr. Yurko Moved to Approve the Design Review Application for 82 SHORE ROAD, LLC/WILD BLUEBERRY – 82 Shore Road – Map 6 Lot 67.  
YURKO/TITMAN 4/1 (Mr. Hokans Dissenting)**

**F. NEW BUSINESS – None**

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

**H. OTHER BUSINESS –**

Mr. Lempicki asked when the Board would like to hold a workshop to discuss changes to the Zoning Ordinance.

Mr. Pinkham responded that they will schedule a workshop to take place sometime during the summer.

**I. ADJOURNMENT -**

**Mr. Yurko Moved to Adjourn at 7:45 p.m.  
YURKO/HOKANS 5/0 UNANIMOUS**

Respectfully Submitted

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Maryann Stacy  
Recording Secretary

*Approved on April 25, 2011*