

ABUTTER INPUT

For: Tuesday May 26, 2020 Planning Board Meeting

RE: COASTAL WINE OGUNQUIT / KATLYN MITSCH – 239 Shore Road –
Map 5 Block 10-1 – LBD – Design Review and Site Plan Review for post
1930 structure. Application for change of use from retail to Type 2
Restaurant with the addition of new outdoor seating.

Maryann Stacy

From: Matthew Lemaster [matthew.lemaster55@gmail.com]
Sent: Wednesday, March 11, 2020 10:05 PM
To: mstacy@townofogunquit.org
Subject: RE: 239 Shore Road, Change of Use Application

Ms. Stacy,

I am writing this email to oppose the change of use application for 239 Shore Road. My understanding is the new owner of the property wants to use the lower level of the residence as restaurant.

Having been a visitor for years, and homeowner in Ogunquit for over a year, I visit that area on Shore Road frequently to visit with friends and support local establishments. Adding another restaurant in the area, which already has several fine choices such as Roost, Northern Union, Roberto's and That Place will only add to more congestion in an already over congested area much of the year. That congestion will reduce the quality of life for the residents and the businesses that are in the area. If anything, the property should be rezoned to be residential only.

I will trust the Planning Board will make an informed decision about this matter. One of the many reasons I decided to buy a home in Ogunquit was the leaders in the town being committed to keeping the town in the spirit of how it was formed many, many years ago.

I would be happy to testify in front of the Planning Board if that would be helpful.

Sincerely,

Matthew Lemaster
26 Dixon's Run Road
Ogunquit, ME 03907
860-966-6261

e-mailed to Applicant 3-12-20, ¹

Maryann Stacy

From: hallgoad [hallgoad@aol.com]
Sent: Wednesday, March 11, 2020 5:53 PM
To: mstacy@townofogunquit.org
Subject: 239 Shore Road

Greetings:

I have recently learned of the proposal to give a special permit to the owners of 239 Shore Road so they can sell beer, wine, and food, and from what I understand, to allow outside dining on the premises.

I am co-owner of a condo on 26 Locust Grove Lane, and am in close proximity to 239 Shore Road. Having spent 30+ summers in Ogunquit, and being well aware of the throngs of people who are in Ogunquit in July and August, I can only see this venture as a negative; one that would only worsen the traffic problem and the limited parking available in that area.

Therefore, I urge to breath deeply and ponder the pros and cons sure to be presented. I am not in favor of this proposal, and hope those making this decision will consider my point of view.

Respectfully,

James M. Goad

e-mailed to Applicant 3/12/20¹

Maryann Stacy

From: Richard Hallin [hallinrr@eckerd.edu]
Sent: Thursday, March 12, 2020 10:35 AM
To: mstacy@townofogunquit.org
Subject: Special Permit

Good Morning:

I am writing to you and the Board of Selectpersons as an owner of property in Ogunquit for more than 20 years. My cottage at 26 Locust Grove Lane is highly prized as a location mid-way between "downtown" and Perkins Cove. I treasure the peace and quiet that the area continues to afford in spite of trends that have resulted in heavier density of buildings and crowd enticing establishments. We need to be more vigilant as we try to protect our "beautiful place by the sea".

This message is prompted by word that yet another encroachment has been proposed by the new owners of 239 Shore Road. It is my understanding that you have received petition for a special permit to allow the owners of that property to open an outside wine and beer venue with food service. If the petition is approved, yet another public gathering space will be opened in an already overly congested area. This will create noise, increased traffic, and exacerbate an already over-burdened parking situation.

Please give this petition a very careful review. I join others in the community in opposition to this request.

Sincerely,

Richard R. Hallin
26 Locust Grove Lane
Ogunquit, ME

e-mailed to Applicant 3-12-20. ¹

Maryann Stacy

From: scott scherschel [scottscherschel@yahoo.com]
Sent: Wednesday, March 11, 2020 5:40 PM
To: mstacy@townofogunquit.org
Cc: Gregory Long; scott scherschel
Subject: Re: 239 Shore Road Change of Use Application
Attachments: Planning Board Letter 3-11-2020.pdf

Dear Ms. Stacy,

Please find a letter to the Planning Board attached regarding the Coastal Wine, 239 Shore Road, Change of Use Application. I would like this letter to be distributed to the Board Members.

Thank you for your assistance.

Scott Scherschel
(813) 417-9269

Received via e-mail 3-11-2020

Ogunquit Planning Board
Maryann Stacy, Recording Secretary
mstacy@townofogunquit.org

Re: COASTAL WINE OGUNQUIT/KATLYN MITSCH--239 Shore Road--Map 5 Block 10-1
LBD--Design Review and Site Plan Review for post 1930 structure.
Application for change of use from retail to Type 2 Restaurant with the addition of new outdoor seating.

Dear Members of the Planning Board:

My name is Scott Scherschel. My partner, Gregory Long and I own the property at 240 Shore Road, directly across the street from the proposed location of Coastal Wine.

We purchased this property 10 years ago after being frequent visitors to Ogunquit for many years. We'd like to say first that it is not our life goal to dash the dreams of a young entrepreneur, and we both think that the concept of Coastal Wine could be a lovely addition to Ogunquit. However, we feel strongly that the proposed business model being presented is not a good fit for our neighborhood.

When I say "fit", I mean that both literally and figuratively. Literally in that it seems that a business is trying to be shoehorned into a space that just doesn't accommodate it. As you all have seen at the site visit, 239 Shore Road is abutted on all sides by residences. These are not just pieces of property, they are people's homes, and we believe that a wine and beer bar will have significant impact on the surrounding residents. (I expect that exception might be made to referencing Coastal Wine as a "bar", but I believe that even though it is being referred to as a "wine tasting room", an establishment that serves wine and beer primarily could easily be referred to as a "bar".)

Another reason we consider Coastal Wine to be a bad fit for the neighborhood takes in a broader context. Though this is not specifically one of the criteria the board is required to use in making a determination of appropriateness, we think it should be. As a property owner in Ogunquit (or any town), one of our greatest responsibilities is to be a Good Neighbor. If I were to move in next door to any one of you and I threw an occasional outdoor party that included drinking, I expect that you would be tolerant, knowing that it is just an *occasional* happening. But, if I live next door to you and have a outdoor drinking party EVERY DAY lasting 10 hours--or longer--then suddenly I am no longer a Good Neighbor. And I bet you would not want me as your neighbor!

Though the proposed business would be limited to an outdoor seating area of 18 people, how exactly could this be controlled? If in fact the interior and exterior areas of the bar are "at capacity", would someone suggest that people must wait to be seated? Where would those people wait? The only outside area would be for seating, so if 10 people were waiting outside

e-mailed to Applicant 3-12-20

where 18 people are already drinking, suddenly this area has 28 people in it. And perhaps the 10 people "waiting" just decide to grab a glass of wine while they wait.

As we know, when people drink they tend to get louder, and the noise level could very quickly become an issue.

According to the Zoning Ordinance of the Town of Ogunquit, Article 1-General 1.1, B. The purpose(s) of this Ordinance are: "B. to encourage the most appropriate use of land within the Town, and to conserve the value of said land;"

We would argue that having a bar abutting residential properties does not conserve the value of the properties, but in fact would limit our market of potential purchasers, thereby lowering the value of the surrounding properties.

I would ask each of you this question:

Would you personally want to live next door or across the street from a bar?

My partner and I would like to make one additional point. We have no opposition to a retail business at 239 Shore Road. In fact, we would be enthusiastic patrons of Coastal Wines if it were a retail business. Retail businesses at 239 Shore Road have coexisted with the residences surrounding the property for years with no complaints. Our objection, along with our neighbors', is to the Change of Use Application to restaurant.

We trust that you will give consideration to these points as you make your determination.

Sincerely,
Scott Scherschel
(813) 417-9269

Maryann Stacy

From: STEVEN FOX [sfoxsmyrna1@yahoo.com]
Sent: Thursday, March 12, 2020 6:20 PM
To: mstacy@townofogunquit.org
Subject: 239 Shore Road Change of Use Application

Ms. Stacy,

This email is in response to the application at the location listed above. My understanding is not only does the owner want to change the use from retail to a restaurant, but also is asking for a parking waiver. This is my email opposing such change.

Parking in the area is already very tight as is the traffic, especially in season. There is not adequate parking available to support the business the owner is proposing. As a homeowner in Ogunquit that visits that area of town quite frequently, the addition of another business to the beyond ample supply that is already there will diminish, in my opinion, the quality of life for the residents and the other businesses. I believe the change of use will be counterproductive to the area and I strongly encourage the Planning Board to deny the change of use application.

I am happy to speak to the Board to further discuss my concerns.

Sincerely

Steven Fox

Maryann Stacy

From: charles miller [miller.charles.a@gmail.com]
Sent: Friday, March 13, 2020 5:00 PM
To: mstacy@townofogunquit.org
Subject: 239 Shore Rd application for change of use

This email is in response to the application for change of use for the property at 239 Shore Road.

We are the owners of 254 Shore Road. A property located diagonally across the street from 239 Shore Road.

We are unable to attend the public hearing.

As residents of this neighborhood, we have concerns regarding the change of use of this property to a Type 2 restaurant for the intended use as a wine restaurant/bar.

The applicant has requested a variance of the parking requirements. She has indicated that patrons would be from foot traffic. If the business is successful, it is not unrealistic to think that people beyond the immediate area will want to try it and most likely drive. Increased vehicular, as well as, foot traffic creates public safety concerns. The Planning Board should strongly consider the impact of traffic congestion caused by potential patrons and deliveries to the business. Additionally, the Board should consider the impact on the already limited parking in this area. The intersection of Bourne Lane and Shore Road already poses a number of issues for both those traveling on foot or driving in a car. Inadequate sidewalks and obstructed sightlines to name a few. There is no parking on the opposite side of Shore Road. Restrictive signage is limited, if not nonexistent. We have already witness parking there in the past. The limited number of spaces on Shore Road in front of Colony Terrace Condos (249 Shore Rd) is inadequate to handle restaurant parking or business deliveries. Additionally, there has been issues with people parking in the Trolley Stop located in this area causing the Trolley to unload or pick-up passengers nearer to the intersection of Ledge and Shore roads creating safety issues.

While not an application requirement, but should be considered relevant nonetheless, is if the applicant will reside in the 2nd floor residence and will the applicant be part of the day to day operations of the restaurant/bar themselves?

We would encourage the board to give further consideration and discussion regarding the noise from outdoor patrons in an open lot (voices have a tendency to get louder when people drink), where patrons will wait, outdoor lighting, restaurant/bar refuse and compliance with zoning setbacks and buffers on the current and future impact to direct abutters and to the neighborhood as a whole.

We are not opposed to the commercial use of this property. However, we are of the opinion that a change of use to a Type 2 restaurant now or in the future (if a change of use is granted, future owners could put in anything they want without needing Planning Board approval) is not an ideal fit for this property and location as it does not comply with current zoning ordinances. We respectfully request the board to not grant the approval for change of use.

If, however, it is the pleasure of the board to grant application approval, it should be done so provisionally with restrictions and visited on annual basis.

Regards,

Charles Miller & David Lusignan

254 Shore Rd

e-mailed to Applicant 3-16-20 1

Maryann Stacy

From: Gregory Long [gregorylong3@yahoo.com]
Sent: Friday, March 13, 2020 1:57 PM
To: mstacy@townofogunquit.org
Cc: Scott Scherschel
Subject: re: 239 Shore Road, Change of Use Application
Attachments: Concerns regarding Coastal Wine application for 239 Shore Road 3-13-2020.pdf

Maryann -

Attached is the documentation that I would like to provide to the planning board and which I reviewed during the 3/9 meeting. Please confirm receipt and that the board will get a copy of this file.

Thank you.

Gregory Long
813-340-3374

Concerns regarding Coastal Wine application for 239 Shore Road

In the Limited Business zone, a property use can be changed to restaurant type 2 after approval of a Site Plan Review. Standards for Site Plan Reviews include:

6.7.A. It shall be the responsibility of the applicant to demonstrate that the proposed use meets all of the following criteria. The Board shall not approve the application unless it makes written findings that the proposed use or structure:

1. will allow the orderly and reasonable use of adjacent properties;
2. will not adversely effect the safety, the health and the welfare of the Town;
3. will not create an undue increase of vehicular traffic congestion on public streets or highways; **[Commercial deliveries will block public streets/sidewalks while unloading]**
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; **[There is no place for outdoor refuse storage that does not conflict with setback restrictions]**
5. or materials incidental thereto or produced thereby will not give off noxious gases, odors, smoke or soot;
6. will not cause disturbing emission of electrical discharges, dust, light, vibration or noise; **[Noise from outdoor drinking/dining will carry into nearby residential homes set very close to this property]**
7. and 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;
8. contains adequate, off-street parking in compliance with this Ordinance; **[Parking is not sufficient and not within zoning requirements]**
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;
10. will be sensitive to adjacent historic properties in compliance with Article 11.
11. has a plot area which is sufficient, appropriate and adequate for the proposed use and the reasonably anticipated operation thereof;
12. will be adequately screened and buffered from contiguous properties; **[Restaurant is not properly screened and buffered from nearby residential properties]**
13. will be constructed with adequate landscaping in compliance with this Ordinance, **[No room for compliant landscaping if parking or outdoor dining exists]** and provision for a storm water drainage system in compliance with the Ogunquit Subdivision Regulations; (Amended 4-7-07 ATM)
14. will provide for adequate pedestrian circulation; **[Questionable due to commercial deliveries and lack of parking]**
15. anticipates and mitigates potential nuisance created by its location; and **[Does not comply because of previously stated concerns]**
16. complies in a satisfactory manner with all applicable performance standards criteria contained in this Ordinance.

Please note that other Type 2 restaurants nearby in the Limited Business zone are not surrounded by residential properties. They are surrounded by bed and breakfasts or hotels or parking lots or streets. And each restaurant fits within setback criteria and has off-street parking that is compliant with zoning.

We have no problem with this property remaining as retail. We respectfully request that the Planning Board deny the application for a Type 2 Restaurant which is not appropriate for 239 Shore Road.

e-mailed to Applicant 3-16-20

Concern: Parking Area is Non-Conforming

This property has a paved parking lot in the front setback in front of the building. It contains 4 parking spaces which are accessible from Shore Road. There are no handicap designated spaces. Two spaces are for the residence above the commercial space.

There is no space for customer parking. There is no space for employee parking. There are two spaces on Shore Road that are for 1 hour only and are regularly full already.

There is no space for deliveries. The applicant describes a menu with fresh vegetables, flatbreads, cheese boards, bread, pita, charcuterie boards, desserts. Regular deliveries are necessary to support a restaurant.

While the applicant indicates all customers will be foot traffic, that is not realistic. There are no public lots nearby where customers could park or commercial deliveries could park. Parking will create a nuisance to surrounding residences and congested roads when people illegally park on sidewalks or road shoulders. All other nearby restaurants have off-street parking.

8.10.B.5. Landscaping (page 105)

Off-street parking and loading spaces, where not enclosed within a building, shall be effectively screened from view by a continuous landscaped area not less than six feet in height and fifteen feet in width along all lot lines adjacent to residential properties, except that driveways shall be kept open to provide visibility for entering and leaving. No off-street parking and loading shall be permitted within the front setback or any setback adjoining a public street. Along any public street there shall be a continuous landscaped area designed to minimize the visual impact of the parking area and vehicles as viewed from the street. The landscaped area shall contain a mix of trees, bushes, shrubs, ground cover, perennials and grading to minimize the view of parked vehicles, yet not hide the buildings or other elements of the site.

Front setback in LB District is 20 feet (Table 703.1, page 95)

8.10.B.2 Vehicular Entrance and Exit (page 104)

Access to parking stalls should not be from major interior travel lanes, and shall not be immediately accessible from any public way.

8.10.B.4.B (page 105)

In paved parking areas painted stripes shall be used to delineate parking stalls. Stripes should be a minimum of 4" in width. Where double lines are used, they should be separated a minimum of 1'0" on center.

3.2.F Non-Conforming Change of Use (page 41)

- Change of Use

A legally existing nonconforming use may be changed to another nonconforming use **provided that the proposed use has no greater adverse impact on the subject** and adjacent properties and resources, than the impact of the former use as determined by the Planning Board. The determination of appropriateness shall require written findings on the probable changes in traffic (volume and type), parking, **noise, potential for litter**, wastes or by-products, fumes, odors, or other nuisances likely to result from such change of use. The performance standards in Articles 8 and 9 of this ordinance shall apply to such requests to establish new nonconforming uses. In addition, within any Shoreland Zone, the determination of no greater adverse impact shall be made according to criteria listed in Article 3.3.H.4 below.

Concern: Applicant is Requesting Parking Waiver

Applicant is requesting a waiver to Off-Street Parking Standards 8.10.D (page 106).

There is no available parking nearby with the exception of 2 on-street parking spaces that have a 1 hour time limit. The property at 239 Shore Road is not close to any public parking lots, such as those near downtown or Perkins Cove or the beach. This would create a nuisance to surrounding residential properties as patrons will park illegally on the road shoulder or straddle sidewalks.

The owner of 239 Shore Road has been making alterations to the building for use as a restaurant. Any changes to the building requires off-street parking to be sufficient. Zoning ordinances define alteration/expansion to include the addition of outdoor seating capacity for restaurants.

Additionally, there is no room for commercial deliveries to the restaurant. This means trucks will park on the shoulder blocking traffic near a congested intersection or park on the sidewalk, blocking pedestrians. The following pages show several examples just from the past few days. Although the applicant stated she would direct deliveries to park in the spaces by the trolley stop, this is not happening today and will be impossible during the summer season.

During the February 24 application review, the code enforcement officer indicated that waivers had been granted to other restaurants. A list of those restaurants, their locations and the proximity to public parking lots and proximity to residential use should be reviewed to determine if those situations are similar. All restaurants nearby have complied with zoning requirements for off-street parking.

3.3.G Nonconforming Structures, Lack of Required Parking or Loading Space (page 43)

A structure which is nonconforming as to the requirements for off-street parking space shall not be enlarged or altered unless off street parking space is provided for the original structure sufficient to satisfy the requirements of this Ordinance and unless additional off street parking space is provided for such enlargement or alteration of the original structure sufficient to satisfy the requirements of this Ordinance. A structure which is nonconforming as to requirements for off-street loading space shall not be enlarged or altered unless off-street loading space is provided for the original structure or use sufficient to satisfy the requirements of this Ordinance and unless additional off-street loading space is provided for such enlargement or alteration of the original structure sufficient to satisfy the requirements of this Ordinance. Article 3.3.G shall not apply to changes in a permitted use that will not require additional parking nor to alterations that will not require additional parking.

6.6.B Procedures for Site Plan Review (page 65)

Changes to Existing Uses or Structures Requiring Site Plan Review - A use or structure which is listed as subject to site plan review in Table 702.1 may not be changed to another use or structure requiring site plan review, nor may the use or structure be expanded or altered unless a site plan approval is obtained from the Planning Board. Expansion shall be defined as:

1. Any increase in floor area or land area devoted to a use requiring Site Plan Review or
2. In the case of a restaurant use, the addition to any indoor or outdoor seating capacity; or
3. 3. In the case of a transient accommodation project classified other than TA-1, any additional rooms or units; or
4. 4. Any additional parking spaces devoted to a use requiring Site Plan Review.

Commercial Deliveries Illegally Parking Due to Lack of Space
March 8, 2020



March 9, 2020



Friday March 13, 2020



Concern: Buffer Areas and Setbacks are Non-Conforming

The homes surrounding 239 Shore Road are very close. There is little to no buffer existing today between them and 239 Shore Road.

Buffer areas need to be landscaped vegetative buffers and not be paved or used for parking. That means if 239 Shore Road's parking was allowed to remain, even though it is non-conforming, one paved parking space closest to 241 Shore Road would need to be excavated and landscaped to provide buffer.

Additionally, the side door with an awning would need to be removed as it interferes with the 7.5 foot buffer. Is there a fire safety concern with a restaurant that only has one door?

8.3 Buffer Areas (page 99)

A non-residential use which abuts an existing or potential residential use shall maintain a buffer strip along the side and rear yards for the purpose of eliminating any adverse effects upon the environmental or aesthetic qualities of abutting properties or any type of nuisance effecting the health, safety, welfare and property values of the residents of Ogunquit. Where natural vegetation cannot be maintained or due to varying site conditions, the buffer area may consist of fences, walls, tree plantings, hedges or combinations thereof. The buffering shall be sufficient to minimize the impacts of any kind of potential use such as: loading and unloading operations, outdoor storage areas, vehicle parking, mineral extraction, waste collection and disposal areas. **An area no less than one half the width of the side and rear yard setback shall be maintained as a landscaped vegetative buffer and not be paved or used for parking.** The permitting authority may require that the buffer effectively screen the commercial use from view from the residential property by a continuous vegetative barrier or stockade fence not less than six feet in height.

Side setback in LB District is **10 feet** (Table 703.1, page 95) but there is a footnote on page 98 that states: The side and rear setbacks for a structure abutting a residential use shall be **fifteen (15) feet**.

Concern: Restaurant Trash/Dumpsters Would Be Non-Conforming

Applicant describes a menu of crackers, pretzels, nuts, jam, cheese boards, charcuterie boards, bread, dips, pita, hummus, vegetables, flatbreads, dessert and says she will continue to build out accompanying food.

Where will food waste and empty beer/wine bottles be stored? The only place where outside trash containers could be placed on the property is behind the building so as to comply with setback requirements. That means additional screening/buffering will need to be created to avoid impact to the residence behind 239 Shore Road.

The applicant states her intention is to keep the trash in the restaurant overnight. Does the Department of Health and Human Services allow for this?

8.16 Dumpsters, Trash Containers, and Recyclables Containers - Setbacks & Screening (page 120)

Effective June 8, 2010, the following provisions shall apply to:

- (1) any existing or new commercial entity required to register as a business, pursuant to the Business Registration Ordinance, Title IX, Chapter 9, of the Ogunquit Town Code; and
 - (2) any existing or new residential complex, containing four (4) or more dwelling units located on any single lot.
- As of this effective date, the provisions of this Article shall apply to any such existing commercial or residential properties meeting the above criteria, notwithstanding the provisions of Article 3.1.A. of this Ordinance regarding continuance of nonconformities.

Exposed trash containers, recyclables containers and dumpsters shall have sufficient setbacks and screening (such as containment within a cabinet, stockade fence or a dense evergreen hedge six (6) feet or more in height) to provide a visual buffer sufficient to minimize their impact on other land uses and properties in the area.

Trash containers, recyclables containers and dumpsters shall be located within a cabinet or screened so as not to be visible from a public way or from the ordinary eye level of an individual standing on the ground from abutting residential property or transient accommodations. In a residential district or a property abutting a residential district or on a property abutting a strictly residential use only, trash containers, recyclables containers and dumpsters shall meet the setback requirement for structures.

Side setback in LB District is 10 feet (Table 703.1, page 95) but there is a footnote on page 98 that states: The side and rear setbacks for a structure abutting a residential use shall be fifteen (15) feet. Front setback is 20 feet.

Concern: Type 2 Restaurant

Application describes wine for delivery. The applicant indicated in the 2/24 meeting with the planning board that her website/advertising will promote wine delivery.

The restaurant described does not comply with a type 2 restaurant.

Restaurant, Type 2 (page 29)

An establishment where meals are prepared and served to the public for consumption, which meets all of the following characteristics:

- (1) food or beverages (either alcoholic or nonalcoholic) are served to persons seated at either indoor or outdoor seating on the premises;
- (2) where food or beverages are not served to pedestrians from an exterior opening or counter, and
- (3) where the design of the facilities advertising, signage or packaging procedures does not promote the consumption of food or beverages off the premises. (Amended 4/01/06 ATM)
- (4) when located in the Limited Business Zone, the restaurant must also meet the following additional standards:
 - The exterior seating area shall be limited in size to no more than 600 square feet;
 - Outdoor serving shall not begin before 7:00a.m. and no outdoor serving is allowed after 9:00 p.m.;
 - There shall be no outside music or outside entertainment allowed at anytime;
 - Type 2 Restaurant use in the Limited Business Zone is limited to lots that abut Shore Road (Effective June 9, 2015).

Maryann Stacy

From: Chuck Wilson [remaxprime@aol.com]
Sent: Friday, March 13, 2020 1:30 PM
To: mstacy@townofogunquit.org; ReMaxPrime@aol.com
Subject: RE Coastal Wine application
Attachments: Restaurant Application letter.docx; Concerns regarding Coastal Wine application for 239 Shore Road copy.pdf

Marrienne,

I am attaching to files for the planning Board

Please confirm receipt

Thanks

Charles Wilson
235 Shore Rd
Ogunquit, ME 03907

301-704-0520

March 13

Charles L Wilson
235 Shore Rd
Ogunquit, ME. 03907
Cell 301.704.0520

8777 Belmart Rd
Potomac MD 20854

Planning and Zoning
Ogunquit ME

I am next door to the proposed restaurant, **Coastal Wine application for 239 Shore Road. I am extremely concerned with this application. This is a retail location with limited parking and outside activities in a very small venue. The new proposed use would impact all of the neighbors. The restaurants from Perkins Cove tell their employees to park behind at Veteran's Park in 4 spaces intended for the community visiting the Park. They also line the streets where there are numerous "No Parking" signs. They arrive at 4pm and leave at 11pm. This application would have a double impact on the neighborhood not to mention the noise factor. My neighbor on the other side is a Hotel. They use Rocky Lane for a concierge and stay parked in the road for 15 to 20 minutes at a time. I have attached some concerns which I share with my neighbors. The Real Estate agent should have informed the new owners of the current use before the completion of settlement.**

Thank you in advance for your understanding

Charles Wilson

e-mailed to Applicant 3-16-20

Concerns regarding Coastal Wine application for 239 Shore Road

In the Limited Business zone, a property use can be changed to restaurant type 2 after approval of a Site Plan Review. Standards for Site Plan Reviews include:

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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; **[There is no place for outdoor refuse storage that does not conflict with setback restrictions]**
5. or materials incidental thereto or produced thereby will not give off noxious gases, odors, smoke or soot;
6. will not cause disturbing emission of electrical discharges, dust, light, vibration or noise; **[Noise from outdoor drinking/dining will carry into nearby residential homes set very close to this property]**
7. and 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;
8. contains adequate, off-street parking in compliance with this Ordinance; **[Parking is not sufficient and not within zoning requirements]**
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;
10. will be sensitive to adjacent historic properties in compliance with Article 11.
11. has a plot area which is sufficient, appropriate and adequate for the proposed use and the reasonably anticipated operation thereof;
12. will be adequately screened and buffered from contiguous properties; **[Restaurant is not properly screened and buffered from nearby residential properties]**
13. will be constructed with adequate landscaping in compliance with this Ordinance, **[No room for compliant landscaping if parking or outdoor dining exists]** and provision for a storm water drainage system in compliance with the Ogunquit Subdivision Regulations; (Amended 4-7-07 ATM)
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We have no problem with this property remaining as retail. We respectfully request that the Planning Board deny the application for a Type 2 Restaurant which is not appropriate for 239 Shore Road.

Parking Area is Non-Conforming

This property has a paved parking lot in the front setback in front of the building. It contains 4 parking spaces which are accessible from Shore Road. There are no handicap designated spaces. Two spaces are for the residence above the commercial space.

There is no space for customer parking. There is no space for employee parking. There are two spaces on Shore Road that are for 1 hour only and are regularly full already.

There is no space for deliveries. The applicant describes a menu with fresh vegetables, flatbreads, cheese boards, bread, pita, charcuterie boards, desserts. Regular deliveries are necessary to support a restaurant.

While the applicant indicates all customers will be foot traffic, that is not realistic. There are no public lots nearby where customers could park or commercial deliveries could park. Parking will create a nuisance to surrounding residences and congested roads when people illegally park on sidewalks or road shoulders. All other nearby restaurants have off-street parking.

8.10.B.5. Landscaping (page 105)

Off-street parking and loading spaces, where not enclosed within a building, shall be effectively screened from view by a continuous landscaped area not less than six feet in height and fifteen feet in width along all lot lines adjacent to residential properties, except that driveways shall be kept open to provide visibility for entering and leaving. No off-street parking and loading shall be permitted within the front setback or any setback adjoining a public street. Along any public street there shall be a continuous landscaped area designed to minimize the visual impact of the parking area and vehicles as viewed from the street. The landscaped area shall contain a mix of trees, bushes, shrubs, ground cover, perennials and grading to minimize the view of parked vehicles, yet not hide the buildings or other elements of the site.

Front setback in LB District is 20 feet (Table 703.1, page 95)

8.10.B.2 Vehicular Entrance and Exit (page 104)

Access to parking stalls should not be from major interior travel lanes, and shall not be immediately accessible from any public way.

8.10.B.4.B (page 105)

In paved parking areas painted stripes shall be used to delineate parking stalls. Stripes should be a minimum of 4" in width. Where double lines are used, they should be separated a minimum of 1'0" on center.

3.2.F Non-Conforming Change of Use (page 41)

- Change of Use

A legally existing nonconforming use may be changed to another nonconforming use **provided that the proposed use has no greater adverse impact on the subject** and adjacent properties and resources, than the impact of the former use as determined by the Planning Board. The determination of appropriateness shall require written findings on the probable changes in traffic (volume and type), parking, **noise, potential for litter**, wastes or by-products, fumes, odors, or other nuisances likely to result from such change of use. The performance standards in Articles 8 and 9 of this ordinance shall apply to such requests to establish new nonconforming uses. In addition, within any Shoreland Zone, the determination of no greater adverse impact shall be made according to criteria listed in Article 3.3.H.4 below.

Buffer Areas and Setbacks are Non-Conforming

The homes surrounding 239 Shore Road are very close. There is little to no buffer existing today between them and 239 Shore Road.

Buffer areas need to be landscaped vegetative buffers and not be paved or used for parking. That means if 239 Shore Road's parking was allowed to remain, even though it is non-conforming, one paved parking space closest to 241 Shore Road would need to be excavated and landscaped to provide buffer.

Additionally, the side door with an awning would need to be removed as it interferes with the buffer. Is there a fire safety concern with only one door in a restaurant?

8.3 Buffer Areas (page 99)

A non-residential use which abuts an existing or potential residential use shall maintain a buffer strip along the side and rear yards for the purpose of eliminating any adverse effects upon the environmental or aesthetic qualities of abutting properties or any type of nuisance effecting the health, safety, welfare and property values of the residents of Ogunquit. Where natural vegetation cannot be maintained or due to varying site conditions, the buffer area may consist of fences, walls, tree plantings, hedges or combinations thereof. The buffering shall be sufficient to minimize the impacts of any kind of potential use such as: loading and unloading operations, outdoor storage areas, vehicle parking, mineral extraction, waste collection and disposal areas. **An area no less than one half the width of the side and rear yard setback shall be maintained as a landscaped vegetative buffer and not be paved or used for parking.** The permitting authority may require that the buffer effectively screen the commercial use from view from the residential property by a continuous vegetative barrier or stockade fence not less than six feet in height.

Side setback in LB District is 10 feet (Table 703.1, page 95) but there is a footnote on page 98 that states: The side and rear setbacks for a structure abutting a residential use shall be fifteen (15) feet.

Restaurant Trash/Dumpsters Would Be Non-Conforming

Applicant describes a menu of crackers, pretzels, nuts, jam, cheese boards, charcuterie boards, bread, dips, pita, hummus, vegetables, flatbreads, dessert and says she will continue to build out accompanying food.

Where will food waste and empty beer/wine bottles be stored? The only place where outside trash containers could be placed on the property is behind the building so as to comply with setback requirements. That means additional buffering will need to be created to avoid impact to the residence behind 239 Shore Road.

The applicant states her intention is to keep the trash in the restaurant overnight. Does the Department of Health and Human Services allow for this?

8.16 Dumpsters, Trash Containers, and Recyclables Containers - Setbacks & Screening (page 120)

Effective June 8, 2010, the following provisions shall apply to:

- (1) any existing or new commercial entity required to register as a business, pursuant to the Business Registration Ordinance, Title IX, Chapter 9, of the Ogunquit Town Code; and
 - (2) any existing or new residential complex, containing four (4) or more dwelling units located on any single lot.
- As of this effective date, the provisions of this Article shall apply to any such existing commercial or residential properties meeting the above criteria, notwithstanding the provisions of Article 3.1.A. of this Ordinance regarding continuance of nonconformities.

Exposed trash containers, recyclables containers and dumpsters shall have sufficient setbacks and screening (such as containment within a cabinet, stockade fence or a dense evergreen hedge six (6) feet or more in height) to provide a visual buffer sufficient to minimize their impact on other land uses and properties in the area.

Trash containers, recyclables containers and dumpsters shall be located within a cabinet or screened so as not to be visible from a public way or from the ordinary eye level of an individual standing on the ground from abutting residential property or transient accommodations. In a residential district or a property abutting a residential district or on a property abutting a strictly residential use only, trash containers, recyclables containers and dumpsters shall meet the setback requirement for structures.

Side setback in LB District is 10 feet (Table 703.1, page 95) but there is a footnote on page 98 that states: The side and rear setbacks for a structure abutting a residential use shall be fifteen (15) feet. Front setback is 20 feet.

Type 2 Restaurant

Application describes wine for delivery. The applicant indicated in the 2/24 meeting with the planning board that her website/advertising will promote wine delivery.

Her restaurant does not comply with a type 2 restaurant.

Restaurant, Type 2 (page 29)

An establishment where meals are prepared and served to the public for consumption, which meets all of the following characteristics:

- (1) food or beverages (either alcoholic or nonalcoholic) are served to persons seated at either indoor or outdoor seating on the premises;
- (2) where food or beverages are not served to pedestrians from an exterior opening or counter, and
- (3) where the design of the facilities advertising, signage or packaging procedures does not promote the consumption of food or beverages off the premises. (Amended 4/01/06 ATM)
- (4) when located in the Limited Business Zone, the restaurant must also meet the following additional standards:
 - The exterior seating area shall be limited in size to no more than 600 square feet;
 - Outdoor serving shall not begin before 7:00a.m. and no outdoor serving is allowed after 9:00 p.m.:
 - There shall be no outside music or outside entertainment allowed at anytime;
 - Type 2 Restaurant use in the Limited Business Zone is limited to lots that abut Shore Road (Effective June 9, 2015).