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**OGUNQUIT PLANNING BOARD
PUBLIC HEARING and REGULAR BUSINESS MEETING
MAY 14, 2012**

PUBLIC HEARING

1. **NELLIE LITTLEFIELD INN & SPA / GAZEBO REAL ESTATE LLC – 27 Shore Road – Map 7 Block 104.**

Mr. Simpson asked if there was anyone who wished to speak for, or against, this application. There was no one and the Public Hearing was closed at 6:02 p.m.

REGULAR BUSINESS MEETING

A. ROLL CALL –

The Roll was called with the following results:

Members Present: Don Simpson (Chair)
Robert Coles (Vice Chair)
Craig Capone

Members Excused: Jackie Bevins

Also Present: J. T. Lockman, SMRPC (Town Planner)
Paul Lempicki, Ogunquit Code Enforcement Officer

B. PLEDGE OF ALLEGIANCE -

C. MISSION STATEMENT –

The Mission Statement was read by Mr. Capone.

- D. **MINUTES** – April 23, 2012 Public Hearings and Regular Business Meeting.

**Mr. Coles Moved to Approve the Minutes of the April 23, 2012 Meeting as Amended.
COLES/CAPONE 3/0 UNANIMOUS**

E. PUBLIC INPUT –

Mr. Simpson 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. Findings of Fact for: ABALONIA, LLC / ELIVIA III, LLC – 268 Main Street – Map 7 Block 66. Approved on April 23, 2012.**

**Mr. Capone Moved to Accept the Findings of Fact for: ABALONIA, LLC / ELIVIA III, LLC – 268 Main Street – Map 7 Block 66 as Submitted.
CAPONE/COLES 3/0 UNANIMOUS**

- 2. NELLIE LITTLEFIELD INN & SPA / GAZEBO REAL ESTATE LLC – 27 Shore Road – Map 7 Block 104 – Design Review and Site Plan Review for a pre 1930 structure. Application to construct a 10'x15' in-ground hot tub and utility shed with wrought iron fence and stone wall enclosure.**

Mr. Capone asked for confirmation that arborvitae would be planted in front of the wrought iron fence in order to screen the hot tub from Shore Road.

Mr. Simpson confirmed that the Applicant had agreed to do this.

**Mr. Coles Moved to approve Design Review for NELLIE LITTLEFIELD INN & SPA / GAZEBO REAL ESTATE LLC – 27 Shore Road – Map 7 Block 104 with the condition that Arborvitae trees be placed in front of the wrought iron fence.
COLES/CAPONE 3/0 UNANIMOUS**

**Mr. Capone Moved to Approve Site Plan Review for NELLIE LITTLEFIELD INN & SPA / GAZEBO REAL ESTATE LLC – 27 Shore Road – Map 7 Block 104.
CAPONE/COLES 3/0 UNANIMOUS**

- 3. THE EGG AND I – 501 Main Street – Map 8 Block 4 – Dumpster Screening Waiver Request.**

Mr. Simpson reviewed Section 8.16.C of the Zoning Ordinance which states that:

“If any business is unable to comply with these standards, because of serious space limitations that make such enclosures or screening unworkable, it may apply to the Planning Board for a waiver, using forms provided for such purpose by the Land Use Office. The application fee for a waiver of this section shall be set annually by the Board of Selectmen. The Planning Board may waive any or all portions of this Article with or without limitations, when, after-review of the waiver application, it is determined that suitable conforming space is not available on a subject property for the location of any screening for exposed trash containers, recyclables containers, or dumpsters. The Planning Board may schedule a site visit to the subject property, before making a final determination on such a waiver application.”

Mr. Simpson noted that the Chief of Police had visited the property and Chief Arnaudin drafted a memo to the Board expressing her concern that the opening of a fence/gate, out into the street

(King's Lane), poses a hazard. She did not feel that moving the dumpsters to the unpaved parking lot across King's Lane would pose a safety risk.

Bob Appis addressed the Board. He expressed concern for the safety of his employees. If he were to relocate the dumpsters to the dirt parking lot, employees would have to carry barrels across a busy street during the summer. He has looked at the property closely and can not see that there is any place more appropriate to put the dumpsters than where they are now, which is where they have been for over thirty years. He noted that they are not visible from Route One and that he has painted the back of the building to match the dumpsters so that they are even less visible.

Mr. Coles asked about the option of using a gate that opens by sliding parallel to the front of the dumpsters rather than a gate that swings outward to open.

Mr. Appis acknowledged that he has not looked into the different types of fencing and gates. He agreed that it would not be good to open the gate into oncoming traffic.

Mr. Simpson reiterated that the Police Chief's concern is with line-of-sight, and she would not want to see a fence which is higher than the dumpsters.

Mr. Capone reminded everyone that the handicapped entrance is at the back of the building and needs to be considered.

Mr. Appis agreed that the dumpsters take up most of the back of the building and a parallel opening gate might impede access to the handicap entrance and/or some of the parking spaces.

Mr. Simpson asked if the handicap entrance needs to be kept clear all of the time or if it would be permissible to allow the opening of the gate to block it momentarily when trash is being put in or the dumpsters are being emptied.

Mr. Lempicki responded that the handicap entrance needs to be kept clear at all times.

Mr. Simpson pointed out that at their current location the dumpsters are so close to the road that employees have to step into the road to lift the lids and place trash inside. He does not see this as being less of a safety concern than having employees walk across the street if the dumpsters were relocated there.

Mr. Appis responded that his concern is having his employees cross two lanes of traffic. Having the dumpsters where they are now doesn't impede traffic in any way and the employees don't have to go out into the road.

Mr. Simpson admitted that based on what he has read and heard he, personally, would have trouble approving a waiver.

Mr. Coles pointed out that Mr. Appis has a parking agreement with the business across Route One (Ogunquit Lobster Pound) and he asked if giving up a parking space or two would be a big issue for the Egg and I.

Mr. Appis responded that parking in town is difficult already and it would hurt him to lose any parking spaces.

Mr. Coles responded that he agrees that it isn't the best option to have employees crossing a street.

Mr. Capone pointed out that the employees would be crossing King's Lane, not Route One, and King's Lane is not an overly busy road. He agreed that the dumpster's current location is almost on the street and any enclosure would only aggravate the situation.

Mr. Simpson asked if the Applicant would consider meeting with the Code Enforcement Officer to discuss possible relocation options, perhaps on the parking lot across King's Lane. He (Mr. Simpson) would also like the Chief of Police to review this alternative location.

Mr. Appis agreed to this.

Mr. Coles pointed out that there are only three Board members present and he asked if all three would have to agree in order for a motion to pass.

Mr. Simpson confirmed that all three members would have to agree.

**Mr. Coles Moved to Table this Application to the May 29, 2012 Meeting.
COLES/CAPONE 3/0 UNANIMOUS**

- 4. MARK ANASTAS / LIQUID DREAMS – 696 Main Street – Map 10 Block 5 – Design Review and Site Plan Review for a post 1930 structure. Application to increase an existing deck, install a set of exterior stairs, and install two new doorways, and convert a portion of the existing building into a café/restaurant.**

Shannon Baker addressed the Board as Mr. Anastas' representative.

Mr. Simpson asked if anything had changed since the last time this applicant came before the Board.

Mr. Baker responded that nothing has changed.

Mr. Lockman added that he has reviewed the application, which was very thoroughly prepared. He confirmed that only 58 parking spaces are required and the Applicant has 82.

**Mr. Coles Moved to find the application for MARK ANASTAS / LIQUID DREAMS – 696 Main Street – Map 10 Block 5 Complete and to schedule the Public Hearing for May 29, 2012 at 6:00 p.m.
COLES/CAPONE 3/0 UNANIMOUS**

- 5. JOSEPH LINDSEY – 49 Bittersweet Lane – Map 21 Block 6 – Subdivision – Final Plan Application. Ten (10) Lot Subdivision of 18.4 Acres in the Farm District. Sketch Plan Approved on 11-28-2011. Preliminary Plan Approved on 3-26-2012.**

Ken Markley addressed the Board as Mr. Lindsey's representative.

Alex Ross, engineer for the project, distributed revised plans (dated May 14, 2012) to the Board members. It was confirmed that these plans were revisions.

Mr. Markley informed the Board that the delay between the Preliminary Approval and this hearing was because of the need to draw up the Road Agreements and the Homeowners Association Agreements. He noted that there had been a signed agreement to use the pond on the Kinsman property for a dry hydrant. After Mrs. Kinsman reviewed this with her lawyer and insurance agent they determined that the liability would be too great and they decided at the last minute to withdraw the permission. He (Mr. Markley) was informed of this on May 11th. Fortunately Mr. Lindsey already had an alternative plan in place to put in a pond of his own which they will use for the dry hydrant. It is his (Mr. Markley's) belief that this addition of a pond will be a benefit to the subdivision, not only as a water source for the fire department but it will also provide diversity to the open space area for vegetation and wildlife.

Mr. Simpson reviewed the memo to the Board from the Fire Chief dated May 14, 2012 and he asked Mr. Markley to confirm that all of the Chief's recommendations will be met.

Mr. Markley confirmed that they will do everything the Chief asks them to do.

Mr. Markley referred the Board to the memo he received from the E-911 Addressing Officer regarding the street name Sonoma Woods Lane. He has spoken to the Police Chief and the Post Master who both agreed to the use of the name. Mr. Lindsey feels strongly about it and wants to use that name.

Mr. Lockman responded that the only issue would be if a road name is too close to another road name. Having a distinctive name is all that is required.

Mr. Simpson pointed out the confusion in some of the paperwork regarding whether there would be nine or ten lots. He asked if all the documents now say "ten lots".

Mr. Markley responded that there will be ten lots and all the paperwork has been corrected.

Mr. Simpson referred to the recently submitted Declaration of Covenants. He asked if this represents the full document that will be used by the homeowners association.

Mr. Markley responded that he assumes that if that is what the lawyer drafted that is what will be used.

Mr. Lockman noted that when he reviewed the paperwork on May 7th he noted that Lot 10 was exempted from the By-Laws and the Declaration and that there were two documents that needed to be corrected. Currently he has only seen one correction.

Mr. Coles asked if the By-Laws and the Declaration had been merged into a single document.

Mr. Simpson agreed, and he asked if the Conservation Commission's recommendation that language be inserted to reflect no use of chemical pesticides had been included.

Mr. Markley responded that it is in the most recent version under Item 15 on Page 5.

Mr. Lockman reminded the Board that a performance guarantee, approved by the Town, is required by Final, the Board does not have to have it in hand to find the application complete

however it will need to be provided before the Board signs the Final Plans. He also reminded everyone that the Applicant will have to provide mylars for the Board's signatures.

Mr. Simpson noted that the Applicant had some difficulty obtaining the bond, and he asked what the status was.

Mr. Markley responded that a cashier's check for \$30,000 would be presented to the Town.

Mr. Lempicki added that he received a call from the Bank and confirmed this.

Mr. Simpson suggested that the Board should hold a public hearing.

Mr. Coles agreed. He noted that this is the first subdivision this Board had reviewed and that there have been some concerns expressed, and he asked if the two week delay would cause any problem for the Applicant.

Mr. Markley responded they already held one public hearing and there was very little input and nothing productive came out of that meeting. He would be surprised if anything would come out of another meeting. The abutter who mostly objects to this project has stated why she objects and has done everything she can to delay it. He (Mr. Markley) welcomes public input early on in the process but at this point the applicant has completed the application and anything the public has to say now won't effect anything.

Mr. Markley added that the Applicant would like to complete the project. This is a good time of year to landscape and they don't want to wait until the middle of summer.

Mr. Simpson responded that while he understands the Applicant's concerns the Board also owes diligence to the public.

Mr. Coles added that the Board could hold a public hearing at the next meeting (May 29, 2012) and make a decision at that time.

Mr. Lockman added that the Board should be given revised By-Laws indicating that there will be ten lots and not nine. Originally there were two separate documents: By-Laws and Covenants. Both required revision and he has only seen a revision of the Covenants.

Mr. Simpson agreed.

Mr. Markley agreed to provide revised By-Laws.

**Mr. Coles Moved to Find the Final Application Complete for JOSEPH LINDSEY – 49 Bittersweet Lane – Map 21 Block 6 – Subdivision – Final Plan Application. Ten (10) Lot Subdivision of 18.4 Acres in the Farm District, with the provision that revised By-Laws showing ten lots are submitted prior to the May 29, 2012 meeting.
COLES/CAPONE 3/0 UNANIMOUS**

G. NEW BUSINESS –

- 1. Riverbrook Park and Sales, Inc. – 731 Main Street – Map 12 Block 10A – Extension of Temporary Dumpster Screening Waiver (issued on August 23, 2011).**

Mr. Simpson informed the Board that the Applicant has agreed to screen the dumpsters and as a result this item has been resolved.

2. BERNARD GELBER – 33 Shore Road – Map 7 Block 105 – Design Review of a Post 1930 structure. Application to replace wood clap board with vinyl siding.

Mr. Simpson noted that there was no one present to represent this application and he suggested the Board table this item until the May 29, 2012 meeting.

**Mr. Coles Moved to Table the Application for BERNARD GELBER – 33 Shore Road – Map 7 Block 105 to the May 29, 2012 meeting.
COLES/CAPONE 3/0 UNANIMOUS**

H. CODE ENFORCEMENT OFFICER BUSINESS – None

I. OTHER BUSINESS – None

J. ADJOURNMENT -

**Mr. Capone Moved to Adjourn at 6:52 p.m.
CAPONE/COLES 3/0 UNANIMOUS**

Respectfully Submitted

Maryann Stacy
Planning Board Recording Secretary

Approved on May 29, 2012