

**OGUNQUIT PLANNING BOARD
REGULAR BUSINESS MEETING
DECEMBER 10, 2012**

PUBLIC HEARING

1. **BRUNO, LOLA, PARIS PROPERTIES / PIZZA NAPOLI – 667 Main Street – Map 12 Block 19-1.**

Mr. Simpson asked if there was anyone who wished to speak for, or against, this application. There being no one 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)
Rich Yurko (Vice Chair)
Craig Capone

Members Excused: Jackie Bevins

Also Present: Paul Lempicki, Code Enforcement Officer
Maryann Stacy, Recording Secretary

B. PLEDGE OF ALLEGIANCE -

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

D. MINUTES – November 26, 2012.

The Minutes from the November 26, 2012 meeting were unanimously accepted as submitted.

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 –

Mr. Simpson noted that with one Board member absent any motion will require a unanimous vote in order for it to pass. Should one Board member abstain, or dissent, the motion would fail.

1. **BRUNO, LOLA, PARIS PROPERTIES / PIZZA NAPOLI – 667 Main Street – Map 12 Block 19-1 – Design Review and Site Plan Review for a post 1930 structure. Application to add a 10'x14'10" non-dining deck waiting area, and a 20'x16' addition, remove one window, relocate fireplace, and rework ADA parking area.**

Jerry DeHart addressed the Board as the Applicant's representative. Mr. DeHart briefly reviewed the project plans.

Mr. Simpson noted that at the last meeting the Fire Chief and the Board both expressed concerns regarding the emergency egress from the new deck.

Mr. DeHart responded that he has met with the Fire Chief and they have developed two possible solutions: they may reconfigure the front door, or add an additional egress stairway from the new deck. They have not decided on which solution to use, however he will comply with the Fire Chief and the Code Enforcement Officer's recommendations.

Mr. Lempicki confirmed that he will work with Mr. Dehart and the Fire Chief, and he (Mr. Lempicki) will see that the issue is resolved.

Mr. Yurko suggested the Board might grant an approval which is conditional upon compliance with the Fire Code for egress from the waiting area. Because the plans which have been submitted have issues, he (Mr. Yurko) does not want to approve them without qualifiers.

Mr. DeHart and the Board Members all agreed to this.

**Mr. Yurko Moved to Approve the Design Review Application for BRUNO, LOLA, PARIS PROPERTIES / PIZZA NAPOLI – 667 Main Street – Map 12 Block 19-1 – Design Review and Site Plan Review for a post 1930 structure. Application to add a 10'x14'10" non-dining deck waiting area, and a 20'x16' addition, remove one window, relocate fireplace, and rework ADA parking area, subject to the Applicant's compliance with Ogunquit Fire Safety Code with respect to egress from the new deck waiting area.
YURKO/CAPONE 3/0 UNANIMOUS**

**Mr. Yurko Moved to Approve the Site Plan Review Application for BRUNO, LOLA, PARIS PROPERTIES / PIZZA NAPOLI – 667 Main Street – Map 12 Block 19-1 – Design Review and Site Plan Review for a post 1930 structure. Application to add a 10'x14'10" non-dining deck waiting area, and a 20'x16' addition, remove one window, relocate fireplace, and rework ADA parking area, subject to the Applicant's compliance with Ogunquit Fire Safety Code with respect to egress from the new deck waiting area.
YURKO/CAPONE 3/0 UNANIMOUS**

- 2. JACQUELINE BEVINS / JACKIE'S TOO – 91 Perkins Cove Road – Map 3 Block 67-1 – Design Review and Site Plan Review for a post 1930 structure. Application to replace an existing metal frame shed roof, which is over a 32'x24' existing deck, with a flat wood structured roof.**

Percy Stevens addressed the Board as the Applicant's representative.

Mr. Simpson asked why the Applicant is choosing to make this change.

Mr. Stevens responded by asking if Mr. Simpson wants to know why the Applicant wants to enclose it.

Mr. Simpson pointed out that the application is for a new roof and does not indicate that the structure would be enclosed.

Mr. Stevens responded that the Applicant definitely wants to enclose it. The existing structure is currently enclosed with a canvas awing and drops. There is an existing nonconforming deck which, according to Section 3.3.C.4 of the Ogunquit Zoning Ordinance the Applicant is allowed to enclose.

Mr. Simpson noted that the language in the application does not say anything about enclosing the new structure.

Mr. Stevens responded that the changes will reduce the volume because of the new flat roof which allows for access for the view easement above, where the Applicant's office is located. He also noted that the numerous roof lines make it difficult to keep the water out.

Mr. Stevens also noted that the restaurant is open year round and the Applicant wants to be able to utilize this area in the off season.

Mr. Lempicki added that the reason this application is before the Board is because this property is located in the Shoreland Protection / Resource Protection District which requires Planning Board approval.

Mr. Yurko pointed out that section 3.3.C.4 of the Ogunquit Zoning Ordinance states: *"The addition of steps or the enclosure of an existing porch shall not constitute the expansion of a nonconforming structure. But the addition of a deck does constitute the expansion of a nonconforming structure and therefore the deck shall meet all the dimensional requirements of this Ordinance"*. Mr. Yurko pointed out that this application involves a "deck" not a "porch".

Mr. Stevens responded that he doesn't think that there is any difference between a porch and a deck.

Mr. Yurko disagreed, pointing out that the definition section states that a deck is not to be considered a porch: *"A flat-floored roofless and wall-less area adjoining a structure. An awning-covered deck shall not be construed as a porch..."*.

Mr. Simpson asked for confirmation that this addition will be a fully enclosed four season structure.

Phil Cavaretta addressed the Board and responded that the Applicant's primary objective is the addition of the flat wood roof, and that the "enclosure" will be folding doors to keep out the weather when necessary.

Mr. Simpson reminded everyone that the Board's only consideration at this time is whether or not the application, as submitted, is complete.

Mr. Simpson asked the Code Enforcement Officer if it was his understanding, when the application was submitted, that this structure would be enclosed.

Mr. Lempicki responded that it was, that there would be a flat roof.

Mr. Yurko asked about the sides.

Mr. Lempicki responded that this was never clarified at the last meeting. There was going to be drop type doors. There has been some discussion about drop doors and then there was discussion about accordion doors.

Mr. Stevens noted that the plans indicate accordion doors.

Mr. Lempicki asked if there will be a means of egress to get out onto this roof.

Mr. Stevens responded that there will be no door, only the egress windows from the Applicant's office on the second floor.

**Mr. Capone Moved to Find the Application Complete for JACQUELINE BEVINS / JACKIE'S TOO – 91 Perkins Cove Road – Map 3 Block 67-1 – Design Review and Site Plan Review for a post 1930 structure. Application to replace an existing metal frame shed roof, which is over a 32'x24' existing deck, with a flat wood structured roof, with the condition that the Applicant submit documentation clarifying how the structure will be enclosed, including material spec sheets.
CAPONE/YURKO 3/0 UNANIMOUS**

Mr. Stevens reiterated that there are folding doors on the existing building.

Mr. Capone responded that the Board's only concern is with the proposed addition, and the plans indicate an open structure.

Mr. Simpson noted that the Public Hearing will be held on January 14, 2013 at 6:00 p.m.

G. NEW BUSINESS – None

H. CODE ENFORCEMENT OFFICER BUSINESS – None

I. OTHER BUSINESS –

1. Discussion regarding a joint workshop between the Planning Board and the Zoning Board of Appeals regarding a proposed amendment to Ordinance 8.13, Section A (Traffic Impacts and Street Access Control).

Mr. Simpson noted that there has been a request from the Select Board asking the Planning Board, along with the Zoning Board of Appeals, to hold a workshop to discuss possible amendments to Section 8.13.A dealing with traffic regulations and developments within the town. It is the desire of the Select Board to make changes to this ordinance which will provide the Planning Board the ability to make decisions regarding traffic impact, something which will be less restrictive than that which currently exists.

Mr. Yurko agreed that a workshop is needed. He noted that the existing ordinance places a full stop ban on development, this creates a situation whereby if the Board approves an application and no one appeals it to court, then it will be allowed to be built, however if someone contests it

the Court is almost certain to reverse the Board's decision. This creates a very unhealthy environment. However, it is Mr. Yurko's assertion that the courts have not looked at the totality of the Ordinance's language.

Mr. Simpson agreed and noted that the Planning Board will host the meeting along with the participation of the Zoning Board of Appeals. The protocol is for the Planning Board to make recommendations to the Select Board for inclusion on the June ballot. There will be a Public Hearing at some point in the process held either by the Planning Board or the Select Board.

The Board agreed on January 28, 2013 from 4:30 to 5:30 for the first Workshop. The objective of this first workshop will be to review the current ordinance and create a list of possible changes. The Town Planner will be included at the second meeting, where he will be tasked with developing language for presentation to the Select Board.

Mr. Yurko added that there are numerous ways to address this issue. Currently there is an absolute ban under certain circumstances. Mr. Yurko suggested that the issue might be resolved with either minor editing of the ordinance, or by a complete rewrite to include a "reasonableness test", alternatively the section might be eliminated completely or only applied to public properties. Mr. Yurko stressed that it will be important to hear from the public and businesses.

Mr. Simpson informed the public that the workshops are public meetings and he asked the public to attend and voice suggestions or concerns. He reiterated that the first workshop will take place on January 28, 2013 from 4:30 p.m. to 5:30 p.m. in the Main Auditorium of the Dunaway Center.

Mr. Simpson noted for the public's benefit that the Board will be down one member for the next few meetings which leaves the Board with an exact quorum, should one of the remaining three Board members have to be absent from a meeting that meeting will be cancelled, perhaps on short notice.

J. ADJOURNMENT -

**Mr. Yurko Moved to Adjourn at 6:40 p.m.
YURKO/CAPONE 3/0 UNANIMOUS**

Respectfully Submitted

Maryann Stacy
Recording Secretary

Approved on January 14, 2013