

**OGUNQUIT PLANNING BOARD
REGULAR BUSINESS MEETING
FEBRUARY 25, 2013**

PUBLIC HEARING – 6:00 p.m.

BUILDERS OF OGUNQUIT / JOHN MIXON – 5 Bourne Lane – Map 5 Block 35-A – Subdivision Sketch Plan - Application to develop an eight (8) unit condominium/subdivision.

Mr. Simpson noted the large size of the crowd and suggested that each speaker keep his/her comments to five minutes and he asked that the audience be respectful.

Marsha William – 31 Bourne Lane (Map 5 Block 38-1). Ms. Williams is a direct abutter to the Russell property. She has several issues with the project:

There is no frontage on the street for the subject lot and she referred to Zoning Ordinance Articles 3.4.B and C and Table 703.1 Dimensional Requirements. Ms. Williams suggested that the proposed use is a change of use which requires a 20' Green Space buffer. She also suggested that the right-of-way (ROW) is not wide enough to meet Ordinance requirements.

Ms. Williams noted that there is only 43' between the edge of the parking lot ramp / the road that goes down to the Barn Gallery and Shore Road. In addition there is no sidewalk in that area, and there is a Y intersection at that turn which creates a dangerous situation for anyone walking in that area.

Ms. Williams also pointed out that this development will increase the amount of traffic in that area which requires improvements which will be all but impossible to make given the amount of room there.

Ms. Williams cited Zoning Ordinance Article 3.2.F which states, in part, that: *“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.”*

Ms. Williams informed the Board that James and Joan Russell told her that they had been offered a lot on Bourne Lane so that they would have frontage. The Russell's responded that they did not want frontage on Bourne Lane because they wanted to keep their lot private and secluded.

Phil Cavaretta expressed concerns about the Barn Gallery and the Ogunquit Playhouse. He asked that any decisions made take into account the “campus” type atmosphere, particularly regarding the Playhouse. He noted that there are a great many children that utilize that area during the summer and he suggested that sidewalks should be required.

Mr. Cavaretta pointed out that there is a drainage issue at the back of that parcel which drains into the river which abuts the property. He noted that the new lawns will probably use fertilizer and he asked how this would be addressed. He is also concerned about the 20’ green area, and he questioned that if the green area is included then the right-of way may have to be moved, and this would require an agreement with the Barn Gallery and the Playhouse.

Mr. Cavaretta agreed with Mr. Williams that this project involves a change of use as it will no longer be a single family dwelling. If that is the case doesn’t it have to conform to the current Zoning Ordinances which afford the abutters a 20’ green space which is currently occupied by the existing ROW.

Mr. Cavaretta asked if this project would be reviewed as a Subdivision, or if there are other standards for review.

Mr. Simpson responded that this project will be treated as a subdivision. He noted that the only reference to condos in the Ordinance is regarding conversion.

Peter Lewis, Ogunquit Playhouse Director expressed concern regarding the safety of the children and guests at the Playhouse Children’s Theater Colony Pavilion and the Barn. He noted that during the summer there may be as many as 12 different ongoing children’s camps with as many as 50 to 70 children on site at one time. These children and their families all utilize the ROW which is the only way they can access that property other than by foot. His concern is the amount of traffic on the ROW coming into the Barn Gallery from Bourne Lane where it goes from a 20’ ROW to a 25’ ROW. He noted that he was there earlier and as he entered he came face to face with a propane truck coming out and there was no way for them to pass each other. Mr. Lewis had to back up to allow the truck to exit.

Mr. Simpson asked where, on the property, the children’s camps are located.

Mr. Lewis responded that there are two additional buildings on the property which abuts the Russell property where the children and adult actors rehearse and perform before they move to the main Playhouse on Route One. In effect the buildings are used interchangeably depending on who is where at any given time.

Mr. Yurko asked for the hours of operation.

Mr. Lewis responded that the kids arrive around 9:00 to 10:00 a.m. and usually leave around 3:00 to 4:00, and the adult actors arrive roughly the same time as the kids and stay

later into the evening, however depending on what is going on they may arrive later in the day and stay later into the night.

Ms. Bevins asked if the children's camp property abuts the Russell Property and if the access to the camps is only through the Barn Gallery.

Mr. Lewis confirmed that the only access for the children and their families is through the Barn Gallery, unless they park at the Ogunquit Playhouse on Route One and walk. He indicated on the Applicant's site map where the ROW is located and where the Playhouse property is in relationship to the Russell Property.

Nancy Davidson, President of the Barn Gallery: Ms. Davidson expressed concerns regarding the ROW which is the only access for four properties: the Barn Gallery, the Valliere property, the Russell property, and the Playhouse property. She confirmed that two vehicles can not pass each other on the ROW. Ms. Davidson noted that the Gallery doesn't open until after the children are already set up in camp, which cuts down on people trying to utilize the ROW at the same time. This accommodation has been working well for a number of years and she questions what impact the addition of these new houses will have. She noted that the Gallery is very careful about safety and parking in case an ambulance or fire truck has to get through. She agreed that the area is narrow and small and that these properties are tucked into a corner without much access.

Mr. Yurko asked how many events the Gallery has during the season.

Ms. Davidson responded that there are about seven full house events with approximately 1500 people coming in and out for a single event. They also have smaller events such as concerts, lectures, figure drawing, and discussions three nights a week during the summer.

Mr. Yurko asked if they keep count of the number of people attending during the year.

Ms. Davidson responded that they have approximately 6500 to 7000 people over the course of the summer.

Mr. Capone asked how many cars utilize the parking lot on a typical day and during one of the larger events.

Ms. Davidson responded that they have about 30 marked parking spaces, however at an opening there are about 60 cars going in and out over the course of the event, and they do have a valet. For an event like the auction where people come and stay for the entire event they get as many cars in as they can, keeping in mind that Mr. Valliere, at the end of the parking lot, has to have access to his property.

Mr. Yurko acknowledged that he was the previous owner of the Morning Dove Inn which abuts the Russell property and he has seen how intense the traffic can be in that area. He often allowed the Barn Gallery to utilize the Morning Dove parking lot.

Steve Lizzio, parking attendant for the Barn Gallery expressed concern with the width of the driveway that accesses the parcel and he confirmed that two cars can not pass each other.

Ms. Bevins asked how the proposed project will impact the Barn Gallery.

Ms. Davidson responded that she can't see how it will be anything but negative, because of the construction, the access, and the safety.

Chris Bolduc, CDB Construction and Maintenance stated that he just built the spec house during the winter and 50% of the construction for the proposed project will take place during the winter. He also noted that if the Barn Gallery can get 65 cars down that road then they should be able to get a fire truck down there. He suggested that an additional eight cars will not have much impact. Mr. Bolduc also stated that this is a great project utilizing all USA made products and employing veterans.

Eleanor Littlefield Hunter – 39 Bourne Lane (Map 5 Block 39-39-1) Her house was built 75 years ago and one of her earliest neighbors was the Ogunquit Playhouse. She expressed concern about the junction of the Y intersection and the entrance to the ROW. She is also concerned about the possible loss of the valuable children's theater programs and artistic activities at the Barn Gallery due to the construction activities and loss of the quiet atmosphere of this corner by the river. Ms. Hunter suggested the Town and supporters of the Playhouse find a way to gift the John Lane Home/Russell Property to the Town of Ogunquit. She expressed her belief that Mr. Mixon's proposal lacks sympathy to the area, the additional strain on the ROW will upset the working relationship of those who have used it for years. She asked Mr. Mixon to find another location to provide working opportunities. *Ms. Hunter submitted a written copy of her statement which will be maintained in the Applicant's file.*

Jason Howe, Esq, of Bergen and Parkinson, representing Lauren and Paul Leyden - 270 Meadowlark Village #306 (Map 5 Block 27-37) who are abutters on the back side of the proposed development, addressed the Board. Attorney Howe stated that the concerns expressed by other abutters and residents in the area regarding safety, impact, use of the easement, access, expansion of use, have all been covered fairly well. He noted that the one issue which has not been mentioned is that there are substantial drainage issues on the back of that property. Attorney Howe pointed out that at the back of the Russell Lot there is significant lowlands where water runs down into the basements in the Meadowlark Development. Several residents there already have problems with water in basements where sump pumps run almost constantly in the Spring. Concerns are that increased development of the Russell Lot with an increase in nonporous surfaces and runoff from homes, landscaping, roads, driveways will result in additional runoff into properties which are already badly overburdened by water issues. Concerns are additional damage to property and the negative impact on green space.

Attorney Howe asked if it is the Board's position that it has accepted the Sketch Plan.

Mr. Simpson responded that would be determined at this meeting.

Attorney Howe asked if the Site Walk had been held.

Mr. Simpson responded that a Site Walk was scheduled but had to be cancelled because snowfall prevented access.

Attorney Howe objected to any vote which would approve the Sketch Plan absent the Board's having conducted a site visit. In support of this objection Attorney Howe referred to Section 5.4 and 5.5 of the Ogunquit Subdivision Regulation. He stated that the Board must hold the Site Walk before it can vote on whether or not the Sketch Plan is appropriate. This makes sense when you look at the flagging process which allows the Board members to see where things are laid out so it can provide written feedback to the Applicant before the next meeting after the site walk. For the record, Attorney Howe noted that the Board is not yet in a position where it can vote.

Travis Rice addressed the Board as someone who has worked on the spec project. He expressed his belief that this is a good project, and while he understands concerns for safety and access he doesn't think a development will be put in place until these issues have been resolved. He also doesn't see 10 or 15 cars as being a great impact.

Norman West addressed the Board. Mr. West is on the Barn Gallery Board. Mr. West read from a deed where John Lane granted land to the Ogunquit Playhouse Foundation wherein Mr. Lane expressed his hopes for the future use of the property as being maintained for the use of wildlife, the arts, and nature. (*Said Deed was recorded at the York County Registry of Deeds in Book 8440 on Pages 081 to 115*)

Rick Licht, Project Site Planner and Engineer addressed the Board. Mr. Licht noted that this application is only at the Sketch Plan Stage, whereby the project has not been fully engineered. This gives them the opportunity to work out any problems or concerns with the neighbors and abutters now rather than later.

Mr. Licht stated that the drainage has not yet been fully studied and they understand that it will be the Applicant's responsibility to meet the Town Standards as well as potentially the State's Chapter 500 Standards. They will look very hard at storm water management and implementation of onsite mitigation devices, probably under soil drain filters. They will certainly look at this.

Mr. Licht went on to say that he has met with the Fire Chief. Conceptually there is the possibility to widen the access which will benefit the Barn Gallery and Playhouse. Using a template they have demonstrated to the Fire Chief that the Town's largest vehicle can turn within the development using the proper radius and an 18' driveway. They will also be widening the initial portion of the ROW to a two lane 20' to 24' drive, whichever is suitable for the Fire Chief's needs.

Mr. Yurko noted that the Applicant's drawing indicates the Bourne Lane driveway that is not where the existing drive is actually located. He asked: if the Applicant intends to widen the driveway at Bourne Lane, won't he need to have to have permission from the Barn Gallery? He noted that the Applicant doesn't have to have that permission now but he will have to have it by the time he begins construction.

Mr. Licht agreed that they would.

Mr. Yurko noted that there is a proposed code revision regarding traffic impact. In the interim, the Town has been advised by Town Counsel that until there is a change to the Ordinance the Board can not approve projects which increase traffic, particularly projects which are similar to the project which initiated the prior litigation. Mr. Yurko asked the Applicant to, in the future, address the question of whether Section 8.1.3 in its current form requires the board to deny the application, and how the Applicant will address that same issue if Section 8.1.3 is changed. He again noted that this is an issue which should be considered for a future meeting.

Attorney John Bannon responded that he represented the Bodack family in the litigation to which Mr. Yurko referred. That case involved a failed intersection, Mr. Mixon's application does not involve a failed intersection and the Bodack case does not apply.

Mr. Yurko asked how far the Hallett Project was from the intersection of Route One and Berwick Road where the failed intersection is located.

Mr. Bannon responded that he does not recall but that intersection had already had a failed level of service.

Mr. Yurko responded that the Hallett project was approximately ½ mile from the failed intersection. Mr. Mixon's project is ½ mile from the intersection of Shore Road and Route One. He added that while the Bourne Lane / Shore Road intersection may not be a failed intersection, the Board has been advised that they should not approve projects which are serviced by any failed intersection. Mr. Yurko noted that this is just something to think about and that the applicant may be asked to address this issue at a later date.

John Everest, realtor for Better Homes and Gardens, addressed the Board in support of this project. He congratulated Mr. Mixon for putting people back to work

Mr. Simpson informed the public that there will likely be additional Public Hearings on this application, which will give people another opportunity to be heard. He asked if there was anyone else who wished to speak. There was no one.

**Mr. Yurko Moved to Close the Public Hearing at 7:05 p.m.
YURKO/BEVINS 4/0 UNANIMOUS**

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 (Mr. Capone was present from 6:00 to 7:00 p.m.
only)
Jackie Bevins
Mark Renaud

Also Present: Lee Jay Feldman, Senior Planner SMRPC
Maryann Stacy, Recording Secretary

B. PLEDGE OF ALLEGIANCE -

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

D. MINUTES – January 28, 2013

Ms. Bevins Moved to Approve the Minutes of the January 28, 2013 Meeting as Amended.

BEVINS/YURKO 3/0 (Mr. Renaud was not a sitting Board member on that date)

E. PUBLIC INPUT –

Mr. Simpson asked if there was anyone who wished to address the Board on any matter not on this evening's agenda. There was no one.

F. UNFINISHED BUSINESS –

1. BUILDERS OF OGUNQUIT / JOHN MIXON – 5 Bourne Lane – Map 5 Block 35-A – Subdivision Sketch Plan - Application to develop an eight (8) unit condominium/subdivision.

Mr. Simpson noted that a comment was made during the Public Hearing regarding the procedural issue of the Board making a finding on the Sketch Plan Application prior to holding a Site Visit.

Mr. Yurko agreed that the Board could not take action on the Sketch Plan Application until a Site Visit has been held. This will require some melting of the snow and staking of the property so that the Board Members can walk the site. Mr. Yurko suggested the Application should be tabled pending a site visit and that a site visit should be scheduled.

**Mr. Yurko Moved to Table a decision on the Sketch Plan Application until after a Site Visit.
YURKO /BEVINS 4/0 UNANIMOUS**

Mr. Simpson asked the Fire Chief for his comments on this project.

Chief O'Brien informed the Board that he has met with the Applicant and Mr. Licht and that they have been able to satisfy some, but not all, of his concerns regarding access of his apparatus to the site, at least on a conceptual level. Chief O'Brien requested the addition of a fire hydrant on site and the Applicant has agreed to comply.

Chief O'Brien still has concerns regarding the twenty foot (20') entrance. While he agrees that fire trucks could make the turn from either direction he is still concerned about congestion when other events are taking place around the project. He noted that it is still very difficult to get an ambulance or fire truck into that area even if this project doesn't happen. He has spoken to the people from the Playhouse about the narrowness of this access and the fact that it is overgrown and difficult to navigate. The Chief suggested an improvement to create a fire lane.

Chief O'Brien confirmed earlier comments regarding the congestion and difficulty of accessing the Barn Gallery and playhouse parking areas during events. He again expressed safety concerns regarding access to all of these properties particularly at the Bourne Lane access point. He noted that an additional five feet at that entrance would better the situation.

Chief O'Brien acknowledged that the distance of the proposed houses from the circular drive/road is close enough that the 100' ladder can reach the second floor of the homes. That, combined with the addition of the fire hydrant satisfies him on those two points.

Ms. Bevins asked if Chief O'Brien had any conflict of interest working on this project.

Chief O'Brien responded that while he owns an excavating business outside of the Fire Department, he has no conflict with evaluating this project as Fire Chief. For the record he confirmed that his excavating company has no connection to Mr. Mixon's proposed subdivision.

Mr. Simpson confirmed that due to the fact that this is a condominiumized subdivision, this project involves one single lot.

Mr. Simpson asked the Applicant to contact the Land Use Office with dates when he will be available to hold a Site Visit. He informed the Applicant that the site will need to be flagged.

G. NEW BUSINESS –

1. JOHN ABBOTT / YOGT -259 Main Street – Map 7 Block 9 – Site Plan Review Application for Change of Use for a pre 1930 structure. Application to convert retail space to an ice cream shop.

Mr. Renaud informed the Board that he is a direct abutter of this property and he recused himself and left the auditorium.

Mr. Abbott addressed the Board and summarized that he is proposing a self serve frozen yogurt shop. It is a 600 square foot space; they will not have any wait staff and will only have minimal interior seating and two small café tables outside.

Mr. Simpson asked if the outdoor tables would be enclosed in a manner similar to Black Sushi.

Mr. Abbott responded that he is agreeable to this.

Mr. Yurko asked for confirmation that the tables would not be on the public sidewalk.

Mr. Abbott responded that they would not.

Mr. Simpson noted that the question has been raised as to whether or not a restroom would be required. He asked if there would be restrooms.

Mr. Abbott responded that there is an existing restroom however it is his understanding that if he does not have wait staff and if they are not formally seating customers he is not required to have a public restroom.

Mr. Feldman asked if they will be licensed by the State, DHHS, or the Department of Agriculture.

Mr. Abbott responded that he will fulfill the health requirements of the State of Maine.

Mr. Feldman asked how many seats Mr. Abbott intends to have.

Mr. Abbott responded 8 to 10 inside and 8 outside.

Mr. Yurko responded that the plan shows 12 seats around tables, bench seats in the windows, and more seating outside for a total of 20-25 seats.

Mr. Feldman noted that if the Applicant has less than 12 seats he is not required to have a public restroom, however if he has 12 or more seats, and he is licensed by the State, he will be required to have a public restroom. The wording is “all licensed food establishments which have more than 12 seats shall provide at least one customer restroom”.

Mr. Abbott asked if that is 12 seats in total, or only 12 seats inside.

Mr. Feldman responded that this is a State requirement and Mr. Abbott should clarify his question with the State. This is not an Ogunquit Board requirement.

Ms. Bevins asked if waitress service changes anything.

Mr. Feldman responded that the regulation does not address the use of wait service; it only mentions the number of seats.

Mr. Simpson asked; if it is determined that a public restroom is required will that be doable?

Mr. Abbott responded that he will cut back the number of seats so that he will not be required to have public restrooms. His intent is to provide takeout products only.

Mr. Yurko confirmed that this property is in the Downtown Business District and parking is not a requirement.

Mr. Simpson informed the Applicant that if he is to revise his plans he should submit the new paperwork to the Land Use Office at least one week prior to the next meeting which will take place on March 11th.

Mr. Yurko Moved to find the application complete and schedule a Public Hearing for March 11th.

YURKO/BEVINS 3/0 UNANIMOUS

2. CAYCE HOLDINGS LLC - 422 Main Street – Map 8 Block 24 – Site Plan Review and Design Review Application for a post 1930 structure. Application to remodel parking layout, create new driveway, implement storm water management structures and modify landscaping, and modify existing residential structure.

Brian Wood addressed the Board as the representative for Steve Fernstrom and Andrew Smith the current owners of the Omelet Factory building which is a mixed use property. The current owners purchased the property two years ago and are seeking to bring the property into conformance, to improve the storm water management, and to better utilize the structure from a square footage standpoint, and increase the energy efficiency. The owners want to renovate the residence portion of the building so that they can live there.

Mr. Yurko asked Mr. Wood to describe what is on the property now.

Mr. Wood referred the Board members to the site plan in their packets which shows the existing conditions on the site.

Mr. Yurko asked what is in front of the residence now.

Mr. Wood responded that there is parking there now as approved by the Ogunquit Planning Board in 1993. The new plans will relocate parking spaces 11 through 17 which are currently on State/Town owned land.

Mr. Yurko asked about parking spaces 7 and 8.

Mr. Wood responded that he is only addressing the residential portion of the property at this time. Parking spaces 7 and 8 serve a very busy breakfast restaurant and the owners do not want to lose parking for that. Should it become necessary they are willing to discuss eliminating those two parking spaces. They are looking to add a one and a half bay residential garage on the east side of the property.

Mr. Wood informed the Board that last year the owners implemented an infiltration system on the commercial side of the property to capture rainwater flowing off the site.

Ms. Bevins asked if the DOT will be putting in a sidewalk in front of this property.

Mr. Simpson responded that the DOT has not submitted final plans yet however the funding has been approved for sidewalks on both sides of Route One in the center of Town, the westerly side sidewalk will end at Glenn Ave. There will be a sidewalk on Route One all the way to the Wells/Ogunquit Line, however it has not been determined which side of Route One the sidewalk will be on but the general thinking is that it will be on the east side.

Mr. Wood responded that the owners met with DOT on site and they were informed that a berm will be put where there is currently parking. The owners informed the DOT representative that they would like to continue to use these parking spaces and they were assured that this is possible. The berm will be low enough that cars can drive over it.

Mr. Simpson asked how the parking spaces will be moved.

Mr. Wood responded that the parking spaces will be moved forward so that cars backing out of a space will back out onto the shoulder of the road and not directly into Route One traffic.

Mr. Smith informed the Board that the surveyor told him that they could put in a soft curb rather than the hard curb they intended to use. This way cars can drive over it.

Ms. Bevins noted that she owned property on Route One and if the DOT decides they want to take it, they do.

Mr. Simpson expressed concern that if the State decides to put a sidewalk on the easterly side of Route One, and the applicant's parking spaces are off of that side walk, customers can't drive across a sidewalk.

Mr. Feldman noted that a field surveyor in the field does not have the same authority as the engineer designing the roadway. He suggested he might speak with DOT.

Mr. Simpson responded that he would speak with the Town Manager who was given the date when DOT will come in with a final plan.

Mr. Feldman added that from the applicant's perspective it doesn't make sense to have cars driving over a Cape Cod berm and potentially bottoming out and damaging vehicles.

Mr. Simpson agreed and noted that he would speak with the Town Manager about that as well. He added that historically there have been drainage issues behind this property.

Mr. Wood responded that there have not been drainage issues behind this property, that it is very dry.

Mr. Simpson asked about drainage and the work DOT will be doing. He asked if Mr. Wood has had a conversation with DOT about this.

Mr. Wood responded that all of the structures he is proposing are on private property and they are only capturing the runoff from their property. That runoff goes into a subsurface infiltrator and will not travel out to Route One. His hope is to have less post development runoff than they have now.

Mr. Yurko asked if this application is ready for a Public Hearing, or if the Board should wait for input from DOT.

Mr. Wood responded that the Applicants would be willing to extract the parking extension on the private property from the application process until the Board has more information. They do not want that portion of the project to hang up the whole thing.

Mr. Yurko suggested the Board schedule a Public Hearing and that the applicant contact DOT regarding the Route One parking spaces.

Mr. Wood responded that if the Town Planner or the Town were to contact DOT they may get a faster response.

Mr. Simpson agreed to speak with the Town Manger about this.

Mr. Yurko agreed that the Board would, in turn, handle the application piecemeal.

Mr. Yurko Moved to find the Application complete and schedule it for a Public Hearing on March 11th.

YURKO/BEVINS 4/0 UNANIMOUS

Mr. Simpson stressed that any additional documents must be submitted to the Land Use Office at least one week before the meeting date.

Mr. Wood responded that other than the DOT response he does not see the need to submit any further documents.

**3. MIRANDA POLLARD / FISH BOWL (fka Gourmet Express) – 53 Shore Road – Map 7 Block 114. Request for Amendment to Site Plan Approval for a pre 1930 structure.
Site Plan Application for Change of Use granted on May 11, 2009.**

Miranda Pollard addressed the Board. She informed them that she intends to change the name from Gourmet Express to “Miranda’s” not the Fish Bowl. She is also asking to reconfigure the current seating arrangement by taking tables from the back of the Seabell to the front and along the side on the grass area. This grass area will be brick paved to create a level seating area. They will also put up fencing to separate the restaurant seating from Shore Road and the Right-Of-Way.

Mr. Simpson asked if they had received the memo from the Ogunquit Historic Preservation Commission (*a copy of which will be maintained in the Applicant’s file*).

Ms. Pollard responded that she did receive a copy.

Mr. Simpson reviewed the OHPC’s memo. He noted that the intent of the Historic Preservation Ordinance, as passed by the voters, is to preserve the integrity of buildings built before 1930. It was noted that this particular structure was built c. 1760. Mr. Simpson also pointed out that the OHPC can not deny an application it only makes recommendations to the Planning Board which does have authority to deny an application.

Mr. Yurko noted that the 2009 Findings of Fact indicated that it was explicit that signage be posted that outdoor seating be restricted to the outdoor patio area only. This indicates that the original plan was to keep everything in the back.

Sue Pollard, owner of Gourmet Express, responded that originally they were not aware that they would have so much difficulty attracting customers to the back of the building. They were originally granted 38 seats and the new plan calls for 30 seats, a reduction of 8 seats. There will be no changes to the structure.

Mr. Yurko asked how much of the seabell the restaurant occupies.

Ms. Pollard responded that they do not occupy any of the Seabell. The part of the building they are in was originally a storage shed area that was converted. The Seabell building is an art gallery and a small area that the hotel uses for breakfast.

Mr. Simpson acknowledged that he has concerns about a negative impact to the visual character of the building if the grass is bricked over and tables and chairs are put out in front of the building and along the side of the structure.

**Mr. Yurko Moved to Find the Application Complete, with the newly amended seating plan, and schedule the Public Hearing for March 11th.
YURKO/BEVINS 4/0 UNANIMOUS**

Mr. Simpson informed the Applicant that all newly submitted documents must be in the Land Use Office at least one week before the meeting.

H. CODE ENFORCEMENT OFFICER BUSINESS –

Mr. Simpson noted that Code Enforcement Officer Paul Lempicki is still out on Medical Leave and that there is a part time Code Officer filling in for him.

I. OTHER BUSINESS – None

J. ADJOURNMENT -

**Mr. Yurko Moved to Adjourn at 7:57 p.m.
YURKO/BEVINS 4/0 UNANIMOUS**

Respectfully Submitted

Maryann Stacy
Recording Secretary

Approved on March 11, 2013