



MUNICIPAL OFFICES

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*Thomas A. Fortier
Town Manager*

OGUNQUIT PLANNING BOARD

PUBLIC HEARING and REGULAR BUSINESS MEETING AUGUST 26, 2013

PUBLIC HEARING 6:00 p.m.

1. Philip Cavaretta – 79 Main Street – Map 17 Block 55.

Mr. Simpson asked if there was anyone who wished to speak for, or against, this application.

Dave Barton, Ogunquit Historic Preservation Commission, referred the Board to the Commission's August 12, 2013 recommendation that the two flat roofs be replaced with pitched roofs. He noted that there are few flat roofs on bungalow type homes.

Mr. Simpson asked if there was anyone else who wished to be heard. There being no one the Public Hearing was closed at 6:10 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)
 Mark Renaud
 Jackie Bevins

Also Present: Scott Heyland, Ogunquit Code Enforcement Officer
 Lee Jay Feldman, SMRPC

B. PLEDGE OF ALLEGIANCE -

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

D. MINUTES – August 12, 2013

Mr. Yurko Moved to Accept the Minutes of the August 12, 2013 Meeting as Amended.

YURKO/BEVINS 4:0 UNANIMOUS

E. PUBLIC INPUT – None

F. UNFINISHED BUSINESS –

- 1. Philip Cavaretta – 79 Main Street – Map 17 Block 55 – Design Review and Site Plan Review for a pre 1930 structure. Application for change of use from single family dwelling to employee rooming house, and to add three bedrooms, parking, and storage in basement.**

Mr. Simpson asked Mr. Cavaretta if there have been any changes to the application.

Mr. Cavaretta responded that he has reviewed the Town's definition of "single family" and it is his opinion that he meets that definition. The home will have a single cooking area and there will be no refrigerators in the bedrooms. It will not have an on-site operator and it will not be rented out by the week. The house will be rented to a group for the season. Just like any other house in Town that is rented out for the summer. He would like this application reviewed for Design Review only, and not for Site Plan / Change of Use.

Mr. Heyland reiterated that it is his opinion that the definition of a "single family house" fits the proposed use of this property. He researched the NFPA Life Safety Codes and determined that a "boarding house" is more in line with a small hotel, where there is a manager on-site overseeing the property, and rooms are rented individually. Mr. Cavaretta's application does not meet this description and Mr. Heyland held firm with his assessment that this is not a "boarding house" and as such should not require Site Plan Review.

Mr. Feldman agreed and noted that he originally prepared his memo to the Board for Design Review only. He based this upon his review of the definitions in the Town Zoning Ordinance. He noted the importance of the "big picture" which incorporates the Building Code, among other things. Based on the wording in the Town's Ordinance, Mr. Cavaretta's use meets the definition of a "single family home". Mr. Feldman reviewed the Town's definition of "family" which states "one or more persons occupying a dwelling unit and living together as a "single housekeeping unit". It does not define family by blood relation or marriage. The key characteristics are a common kitchen and common bathroom. Mr. Feldman pointed out that the definition of a boarding house includes a family living on the premises acting as a proprietor or owner. That will not take place in this case.

Mr. Feldman summarized that after a review of the Ordinance he was unable to come to any conclusion other than that this will be a "single family home". It makes no difference if there are two bedrooms or ten bedrooms, and the definition of "family" in the Town Ordinance does not require relation by blood or marriage or any other thing which relates people to each other.

Mr. Yurko disagreed. He noted that part of the “single family home” definition requires the occupants to live together “as a single housekeeping unit”. He interprets that to mean that they operate as a family or a commune, where no one pays an individual amount for a bedroom, and if one occupant leaves in the middle of the season the owner does not stop collecting rent from them. Mr. Yurko anticipates that Mr. Cavaretta will rent the house to a single person who will then collect individual rents from the other occupants. This is not operating as a single housekeeping unit. He agreed that the definition of “family” does not require that the individuals be related by blood or marriage but they do have to function as a family.

Mr. Yurko agreed that this situation does not neatly fit the definition of “boarding house” however the fall back definition is not a “single family dwelling”. He acknowledged that affordable staff housing is a serious need in Town, however, due to the dense usage, it needs to be looked at from a Life Safety perspective.

Mr. Heyland responded that the “density” is regulated in other places in the Code and will be looked at regardless of whether it is characterized as a single family dwelling or a boarding house. The difference is based more upon how it is run rather than how many people will be living there.

Mr. Feldman added that he received no information as part of the application indicating that there would be “fee for service”, he attempted to define this usage based upon the Ordinance. He noted that the Ordinance has no definition for employee housing and that single family dwelling was the best fit he could come up with.

Mr. Simpson reviewed the Fire Chief’s August 7, 2013 Memo to the Board.

Mr. Heyland responded that the memo was drafted after the Applicant expressed his intention to come before the Board as a boarding house. Mr. Heyland does not believe that the Fire Chief has reviewed any plans, rather he applied boarding house standards in his response.

Mr. Simpson asked; if the Board determines that this is not a boarding house would the Fire Chief’s requirements still apply?

Mr. Heyland responded that they would not, unless the Board imposes them as conditions of approval or defers to the Fire Chief.

Mr. Cavaretta responded that he intends to put a Life Safety sprinkler system and alarm system into the building anyway, due to insurance rate considerations.

Mr. Simpson stated that he agreed with Mr. Heyland and Mr. Feldman that this does not meet the definition of a Boarding house and does not require Site Plan Review.

Ms. Bevins agreed with Mr. Simpson and added that this is why they have a Code Officer. To make these types of distinctions.

Mr. Renaud agreed as well.

Ms. Bevins Moved that Site Plan Review is not applicable to this application.

Mr. Yurko reiterated that this is a terrible mistake. He suggested that the town residents will agree with him that it is wrong to suggest that a house occupied by a group of employees is somehow a family. It is not a family, it is an employment relationship.

Mr. Cavaretta responded that his use is not cast in stone, he may rent it to employees or he may rent it out for the season to vacationers.

Mr. Yurko suggested that if this is the case then Mr. Cavaretta should withdraw his Site Plan Review.

Mr. Cavaretta responded that this is what he is doing.

Mr. Yurko noted that Mr. Cavaretta can't do both things together.

Mr. Cavaretta suggested that if he can put together a group of Jamaicans who rent the house together, cook together, and operate as a single unit, then this is no different than a group of friends or a large family that rents the house for the summer.

Mr. Simpson restated Ms. Bevin's motion.

**Ms. Bevins Moved that Site Plan Review is not applicable to this application.
BEVINS/RENAUD 3:1 (Mr. Yurko Dissenting)**

Mr. Simpson asked if there have been any changes to the design.

Mr. Cavaretta responded that there have not been any changes, and he disagrees with the Historic Preservation Commission about the roof line.

Adam Schoenhardt addressed the Board on Mr. Cavaretta's behalf. He researched bungalow style roofs and found many flat roofs. However his primary consideration was interior spaces, parking, and giving the building some character which it currently lacks. He also noted that the hip roof gave the building a "civic" appearance, which they want to avoid.

Mr. Simpson noted that the Design Review Checklist requires that the roofline be compatible with the building as well as the neighboring buildings. He doesn't see any problem with the proposed plan.

Mr. Feldman agreed and added that the flat roof design is also in line with the scale of the building.

Mr. Simpson asked Mr. Cavaretta to confirm what he intends to do regarding the Fire Chief's memo and the inclusion of a sprinkler/alarm system.

Mr. Cavaretta responded that he will put in a sprinkler / alarm system that will meet the lower level Life Safety requirements for a single family home. He is doing this for insurance purposes. He doesn't know about the water line feed but he assumes it will be sufficient for this type of system.

Mr. Heyland added that Mr. Cavaretta is referring to a 13-D System which is the NFPA's single family type fire sprinkler system and he (Mr. Heyland) will confirm that it is installed prior to issuing a Certificate of Occupancy.

Mr. Cavaretta asked the Fire Chief to withdraw his memo, because he (Mr. Cavaretta) is not applying for a boarding house, he is applying for a single family home.

Mr. Heyland agreed to speak to the Fire Chief.

Ms. Bevins Moved to Approved the Design Review for Philip Cavaretta – 79 Main Street – Map 17 Block 55.

BEVINS/RENAUD 3:0:1 (Mr. Yurko Abstained)

G. NEW BUSINESS –

1. Miranda Pollard Miranda's – 53 Shore Road – Map 7 Block 114 – Request to Amend Site Plan Approval issued on May 28, 2013. Current request for table umbrella use in front of Type 3 Restaurant.

Sue Pollard addressed the Board and informed them that she now wants to use the umbrellas because she did not anticipate the sun beating down on the tables nor the bird nests above the tables causing a problem for people sitting there.

Mr. Feldman noted that the Design Review standards do not address umbrella use. He noted that Ms. Pollard agreed to not use table umbrellas as a condition of approval. The Board may now agree to eliminate that condition of approval however the umbrellas themselves are not part of the Design Review Process.

Mr. Simpson reviewed the Minutes from the May 28, 2013 meeting wherein Ms. Pollard agreed that no umbrellas or other similar obstructions would block the view of the front of the Seabell. He also referred to the June 24, 2013 Findings of Fact which indicate the use of three tables with a total of eight seats located in front of the building. Mr. Simpson asked if Ms. Pollard was now asking for four tables.

Ms. Pollard responded that she is not, she is asking for one umbrella to put over the existing tables. She did not think about the birds and what they would do over the tables. She suggested this is a health issue.

Mr. Yurko pointed out that the letter Ms. Pollard submitted with her application asked for two umbrellas over four tables and a third umbrella over the host stand.

Ms. Pollard responded that the host stand umbrella has been there since the beginning and hasn't been a problem, she wants to add two umbrellas to put over the two tables on the side where the bird nests are. She added that she could get away with one large umbrella to cover two tables if she is forced to.

Mr. Yurko asked for clarification: other than the host station umbrella, will there be one or two umbrellas over the tables?

Ms. Pollard responded that there would be two.

Mr. Simpson read from Ms. Pollard's August 1, 2013 letter in which she asks for "two umbrellas over four tables". He noted that the original approval was for three tables, and he asked if she is now asking for a fourth table.

Ms. Pollard responded that she is not. She is asking for two umbrellas to put over the three tables/eight seats.

Mr. Heyland agreed that the original approval was for three tables and no umbrellas. He suggested she now needs to ask for approval for the use of the two umbrellas and the fourth table.

Ms. Pollard agreed.

Mr. Yurko summarized that the initial application which included umbrellas was denied. The Applicant then came back with a simplified application which did not include umbrellas. This application was approved. It was his understanding that the umbrellas were a visual impairment to the Seabell, however he had not considered the birds or weather.

Dave Barton, Historic Preservation Commission, reminded the Board that the Commission's concern was to keep the sight lines clear to the front of the building. The Commission would be against the use of the table umbrellas.

Mr. Simpson congratulated Miranda's on the appearance of the building however he is concerned that the umbrellas will impede the visual appearance of the building.

Mr. Yurko expressed his concern that the Board may be at the edge of its authority regarding the regulation of the use of the umbrellas, which are not a part of the structure of the historic building.

Ms. Bevins suggested the property is attractive and she would like to allow the use of the two umbrellas. She does not think it will hurt the view of the building. She also noted that the original approval was for eight seats which is what Miranda's has.

Ms. Bevins Moved to Approve the Request for the use of two umbrellas and the addition of a fourth table, and a total of eight seats.

BEVINS/YURKO 3:1 (Mr. Simpson Dissenting)

H. CODE ENFORCEMENT OFFICER BUSINESS – None

I. OTHER BUSINESS –

1. Code Enforcement Officer Workshop discussion.

It was noted that the workshop lasted for 1 ½ hours and further discussion at this point would be counterproductive.

J. ADJOURNMENT -

Mr. Yurko Moved to Adjourn at 7:20 p.m.

YURKO/RENAUD 4:0 UNANIMOUS

Respectfully Submitted

Maryann Stacy
Town of Ogunquit
Recording Secretary

Approved on September 9, 2013