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OGUNQUIT PLANNING BOARD MINUTES MONDAY SEPTEMBER 14, 2015

REGULAR BUSINESS MEETING

Mr. Wilkos noted that the Board completed its 5th workshop regarding the Design Review Process. The Board determined that all applications, coming before the Board, which involve a pre December 31, 1930 structure must obtain a memo from the Ogunquit Historic Preservation Commission before the application will be heard by the Planning Board.

A. ROLL CALL –

Mr. Wilkos called the roll with the following results:

Members Present: Steve Wilkos (Chair)
 Muriel Freedman (Vice Chair)
 Jackie Bevins
 Rusty Hayes
 Rick Dolliver (1st Alternate)
 Brian Aromando (2nd Alternate) – Arrived at 6:20 p.m.

Members Excused: Don Simpson

Also present: Scott Heyland, Code Enforcement Officer
 Lee Jay Feldman, SMPDC
 Maryann Stacy, Recording Secretary

Mr. Wilkos noted that due to Mr. Simpson's absence Mr. Dolliver would be a full voting member for the duration of this meeting.

B. PLEDGE OF ALLEGIANCE -

C. MISSION STATEMENT – The Mission Statement was read by Ms. Freedman.

D. MINUTES –

August 24, 2015 Shore Road Commons Site Visit.

Mr. Dolliver Moved to Accept the Minutes of the August 24, 2015 Site Visit as Submitted. DOLLIVER/HAYES 4:0 UNANIMOUS (Ms. Bevins was not in attendance at the Site Visit).

August 24, 2015 Public Hearing and Regular Business Meeting.

Mr. Dolliver Moved to Approve the Minutes of the August 24, 2015 Meeting as Amended.

DOLLIVER/HAYES 5:0 UNANIMOUS

E. **PUBLIC INPUT** – For any matter NOT already on this Agenda.

Mr. Wilkos asked if there was anyone in the audience who wished to be heard on any matter not on this meeting’s agenda.

Newell Perkins (Ogunquit Historic Preservation Commission - OHPC) addressed the Board. He informed the Board that if a historic structure were to burn, the new structure built to replace it would be both a new and old structure. Mr. Perkins referred to Article 3.3.E of the Zoning Ordinance which states that:

“Any nonconforming structure which is hereafter damaged or destroyed by fire or any cause other than the willful act of the owner or the owner’s agent, may be restored, rehabilitated or reconstructed, provided that the restoration, rehabilitation or reconstruction shall not enlarge the overall floor space, or height of the building, or cause the building to become more nonconforming. A permit for such reconstruction must be obtained and actual reconstruction must be commenced within 12 months and completed within 24 months of the damage or destruction. Nothing in this section shall prevent the demolition of the remains of any building so damaged or destroyed, or shall prevent the reconstruction or rehabilitation of accessory site features exempted from the definition of structure in this Ordinance.”

Mr. Perkins noted the neighborhood significance of the Blue Water Inn and Huckleberries buildings recently destroyed by fire.

Mr. Perkins suggested that the buildings may be rebuilt, no larger or higher, than the original. He also asked that the appearance and feel of the new buildings reflect that of the original structures. He asked for discussion prior to the formation of building plans. He wanted the property owners to understand the neighborhood significance of the structures and the importance of keeping the previous look.

Mr. Heyland responded that any construction plans will come to his office first.

F. **UNFINISHED BUSINESS** – None

G. **NEW BUSINESS** –

1. **FISH HOUSE LLC – 3 Harbor Lane (Map 3 Block 77-8) Resource Protection District (RPD) Design Review Application for a pre 1931 structure. Application to convert commercial space to three bedroom residential space, and remodel existing second story residential space.**

Jerry Dehart addressed the Board as the Applicants’ representative. Mr. Dehart referred the Board members to the site plan included in their packets. He noted that the need for elevation

drawings, pre and post construction, for all four sides of the building is a new requirement. He pointed out that those elevations are included in the application packets.

Mr. DeHart pointed out that the renderings of the proposed changes are computer generated which may make the building look more modern than it will actually appear when completed.

Mr. DeHart informed the Board that he brought material samples to the meeting and that he is withdrawing his request for waivers from those submission standards. The roofing material will match the existing material currently on the building. The handrails and decking material will be a newer product however it will appear very similar to what is on the building now.

Mr. Wilkos asked Mr. DeHart to officially withdraw the waiver request, in writing.

Ms. Freedman asked how long the new siding will take to fade to match existing siding.

Mr. DeHart responded that it will take about five years.

Mr. Wilkos asked if the applicants had met with the OHPC.

Mr. DeHart responded that they submitted a copy of the application however they did not meet with them.

Newell Perkins (OHPC) addressed the Board. Mr. Perkins stated that the OHPC's Motion with regard to this application was as follows:

“Motion made by Helen Horn: The design CAD rendition of this retro fit and expansion at #3 Harbor Lane does not provide an appropriate visual transition from the nearby commercial aspects of Perkins Cove to the immediately adjacent residential area of Perkins Cove. The façade facing the street is devoid of any design creativity, charm or architectural interest and it will look like the back of a commercial building in an urban setting.

Motion seconded by Marcia Williams: Vote 3 positive and 0 opposed.”

Mr. Perkins stated that the proposed design wipes out any “fish house” feeling or appearance. He agreed that the majority of the building's features face the ocean and he asked that the design be redone to include some architectural features on the street side. He reminded the Board that the OHPC is charged with reviewing what is visible from the street. He pointed out the smaller windows on the street side of the building and the lack of any other architectural features and interesting details reflective of the fishing shack or art colony eras.

Mr. Dolliver pointed out that the photographs of the existing building look very similar to the CAD images. He asked if Mr. Perkins' issue is because one image is computer generated.

Mr. Perkins responded that the proposed renovations are uninteresting and unappealing.

Mr. Wilkos asked what the OHPC recommends.

Mr. Perkins responded that the applicant's contractor can design interesting detail for the street side of the building. He noted the existing awning which gives definition to the building. He suggested that the proposed plan is degrading to the existing line of shops and other buildings in the area.

Mr. Wilkos asked why the applicant and the OHPC did not meet.

Mr. Perkins responded that the dates of the OHPC meetings were offered to them and the Applicant was unavailable on those dates.

Mr. Aromando pointed out that the Planning Board's decisions are based upon the Ordinance checklist and it might help if the OHPC formatted their comments in those terms.

Mr. Perkins responded that the OHPC is focused on the elevations facing the street.

Mr. Wilkos asked Mr. Perkins to summarize: neighborhood significance, historic significance, and architectural significance.

Mr. Perkins responded that the buildings in Perkins Cove have neighborhood, architectural, and historic significance because Ogunquit developed, in the way it did, by virtue of those buildings which were built as fishing shacks and converted into other uses while enhancing the beauty and charm of the Perkins Cove area.

Mr. DeHart responded that the applicants did not refuse to meet with the OHPC. He contacted the OHPC via e-mail to Mr. Perkins. He was never told about the OHPC meeting dates until it was too late. He was given one date to meet with the OHPC, he was unable to meet on that date, and there was no offer for another meeting.

Mr. DeHart also referred to the OHPC's memo in the form of a motion which is negative and devoid of positive recommendations. He also pointed out that they can't add anything to the street side of the building because it is already in the setback.

Mr. Wilkos asked if the applicant is willing to go back to the OHPC and meet with them.

Mr. DeHart responded that given the OHPC's lack of constructive response to the application the Applicants are now unwilling to meet with them.

Ms. Bevins noted that her business is in the cove. She pointed out that the applicant's "fish shack" has been changed completely, there have been numerous alterations to it over time. She agreed that the proposed plans may not be to everyone's taste however it may be what the applicant wants. She asked why the OHPC didn't express concerns when the building was altered in the past, and she suggested it is too late now.

Mr. DeHart informed the Board that when he was Chair of the OHPC they did not have set meeting dates. The OHPC met as each application came in. He also reminded the Board that there have been significant changes in Perkins Cove recently, and it is unfair to now criticize the

applicants desire to keep their building simple. He stated that the OHPC's comments are more than unhelpful, they offer no constructive suggestions.

Mr. DeHart summarized that the proposed plan is to retain the current look of the building. They will use materials being used on other structures in the Cove, and he has met more times with the Code Enforcement Officer than any other application has had to. He again asked for the specific characteristics of a "fishing shack".

Mr. Wilkos agreed that the memo from the OHPC did not offer any constructive suggestions as to how the plan might be improved.

Mr. Perkins informed the Board that the OHPC's schedule of meeting on the 2nd and 4th Wednesday of each month has been in place for eight months. It is unreasonable to ask the OHPC's volunteers to drop everything and whip up a meeting to make something work just to speed up the process by a week or two. He is unwilling to ask the OHPC members, including himself, to give up their time to schedule additional meetings.

Mr. Wilkos asked why OHPC didn't offer any feedback to improve the design.

Mr. Perkins responded that the OHPC members aren't architects or designers. They are individuals with somewhat reasonable taste who envision what Ogunquit looks like and try to maintain that look. He reiterated that all of the architectural features are on the front and ocean side and there is no attempt to add charm to the street side of the building, which is the side that will add or subtract to the charm of the other buildings in Perkins Cove.

Mr. Aromando asked Mr. Perkins; would it satisfy OHPC if the ocean side design were moved to the street side of the building?

Mr. Perkins refused to answer on behalf of the other OHPC members.

It was established that the front of the structure is the street frontage where the entrance is.

Mr. Aromando pointed out that the street side of the building is a high traffic area in the summer, he also pointed out that this side of the building also faces the public bathrooms and the parking lot. He suggested that the applicant may have designed the plan the way it is to ensure privacy and reduce noise. Mr. Aromando also stated that the OHPC has requested more architectural detail but they were unable to provide specifics regarding what architectural detail is illustrative of a "fishing shack".

Mr. Perkins suggested the Board has the ability to hire a consultant to develop architectural detail and that the applicant would pay for this service.

Mr. Dolliver again stated that he has been comparing the photographs and the images of the proposed plans and they look the same to him. He noted that landscaping will soften the appearance of the new look. He also pointed out that there are currently signs and plastic shutters on the building and without them the building looks just like the CAD images.

Mr. Heyland agreed that the proposed plan is not much different from what is currently there, and that any opinion regarding the design is subjective.

Mr. Dehart again noted that the bathhouse is in the neighborhood and it is not characteristic of “historic Perkins Cove charm”.

He asked the Board to find the application complete and approve the plans.

Ms. Freedman asked if any portion of the property is within 250 feet of the high water line of a river or salt water body?

Mr. Heyland responded that it is.

Ms. Freedman asked if any portion of the property is within a floodplain as identified by FEMA.

Mr. Heyland responded yes.

Ms. Freedman asked if there would be any landscaping.

Mr. DeHart responded that the applicant will put in whatever shrubs or plantings the Board would like. He noted that there is Rosa Ragusa there already which they will likely leave in place.

Mr. Wilkos expressed his opinion that the application looks fine to him, however the OHPC has concerns and he (Mr. Wilkos) asked the Board how it would like to proceed.

Mr. Dolliver responded that when the OHPC reviewed his restaurant they offered suggestions regarding planters and buffering. This was positive feedback. This current response from the OHPC was completely negative and he (Mr. Dolliver) believes that this application is complete.

Mr. Hayes suggested it is difficult to envision the final product from a computer generated drawing. He (Mr. Hayes) has confidence in Mr. DeHart’s work and that it will be an attractive building. He agreed with Mr. DeHart that the bathhouse across the street is part of the neighborhood and that the applicants would not want to have windows looking out at it.

Mr. Hayes agreed with Ms. Bevins that the Fish House has been altered many times and the original fish house look is long gone.

Mr. Heyland asked if the air conditioning would be left in place.

Mr. DeHart responded that he always moves the air-conditioning to the right side. He again reiterated that the OHPC’s input did not contain a single suggestion.

Mr. Aromando asked for the Board to go through the checklist.

At this time the Board reviewed the Design Review Submissions Checklist and found all required items accounted for.

Ms. Freedman Moved to Find the Application Complete for FISH HOUSE LLC – 3 Harbor Lane (Map 3 Block 77-8).

FREEDMAN/DOLLIVER 5:0 UNANIMOUS

At this time the Board reviewed the Design Review Certification Requirements as outlined in Article 11.7.C of the Ogunquit Zoning Ordinance.

The Board members expressed their opinions that the Applicant should not be required to meet with the OHPC.

Mr. Wilkos stated that the OHPC is an advisory commission to the Planning Board. The Board depends on OHPC to provide insight and to make recommendations, which did not happen for this application. In this case the applicant was not able to meet with OHPC on their regularly scheduled meeting date and he was not offered another opportunity.

Mr. Dolliver Moved to Approve the Design Review Application for FISH HOUSE LLC – 3 Harbor Lane (Map 3 Block 77-8) Resource Protection District (RPD) Design Review Application for a pre 1931 structure. Application to convert commercial space to three bedroom residential space, and remodel existing second story residential space.

DOLLIVER/HAYES 5:0 UNANIMOUS

2. DAVID GIARUSSO – 661 Main Street (Map 13 Block 50) General Business District 2 (GBD2). Site Plan Review Application for Change of Use from commercial retail to paid parking lot and accessory parking for abutting restaurant (Angelina's).

Planning Board Action: Determination of Completeness and Schedule Public Hearing.

Geoff Aleva, Civil Consultants, addressed the Board as Mr. Giarusso's representative. Mr. Aleva summarized the proposed plan. He noted that a building has been removed and the proposed parking area layout will meet the requirements for dimension of stall size and traffic movement. The plan is to also install a retaining wall in the back corner, and lighting for customer safety.

Mr. Wilkos summarized that the applicant is requesting to use the parking area as a paid parking lot when the restaurant (Angelina's) is not open. When the restaurant is open the parking spaces will be used exclusively for restaurant customer parking.

Mr. Wilkos asked Mr. Heyland if he had any input.

Mr. Heyland responded that he has reviewed the application and he is comfortable with it at this point. He suggested Board members review Article 8.10 of the Ordinance regarding off-street parking. He also suggested a condition of approval which states the multi use nature of the property as an accessory use of the restaurant as well as paid parking lot, and how that will play out with regard to hours and management.

The Board reviewed the applicant's waiver requests with the following results:

Item 6.6.C.3.E - Standard Boundary Survey for the Parcel

REASON: The proposed work is bounded by property with common ownership to the south. There are standard boundary surveys for the property to the north and west of the subject lots. The boundaries are known for this project.

Mr. Wilkos called for discussion.

Ms. Freedman Moved to Grant a waiver under 6.6.4 for Item 6.6.C.3.E - Standard Boundary Survey for the Parcel.

REASON: The proposed work is bounded by property with common ownership to the south. There are standard boundary surveys for the property to the north and west of the subject lots. The boundaries are known for this project and strict compliance with the required application submission would unduly burden the Applicant. The Board also finds that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.

FREEDMAN/HAYES 5:0 UNANIMOUS

Item 6.6.C.3.I - Location of all wetlands, river, streams, brooks and other water bodies, natural features, on-site or adjacent.

REASON: A Waiver for this requirement is requested due to the fact that no known wetlands or water bodies are located on this site.

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity.

Mr. Wilkos called for discussion.

Ms. Freedman Moved to Grant a waiver under 6.6.4 for Item 6.6.C.3.I - Location of all wetlands, river, streams, brooks and other water bodies, natural features, on-site or adjacent.

REASON: A Waiver for this requirement is requested due to the fact that no known wetlands or water bodies are located on this site.

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity. The Board also finds that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.

FREEDMAN/HAYES 5:0 UNANIMOUS

Item 6.6.C.3.J - it is required that applicants submit a High Intensity Soil Survey for undeveloped vacant sites w/o water and sewer.

REASON: A Waiver for this requirement is requested due to the fact that the site is currently developed and municipal water and sewer services exist on the site. No connection to existing services is proposed.

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity.

Mr. Wilkos called for discussion.

Ms. Freedman Moved to Grant a waiver under 6.6.4 for Item 6.6.C.3.J - it is required that applicants submit a High Intensity Soil Survey for undeveloped vacant sites w/o water and sewer.

REASON: A Waiver for this requirement is requested due to the fact that the site is currently developed and municipal water and sewer services exist on the site. No connection to existing services is proposed.

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity. The Board also finds that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.

FREEDMAN/HAYES 5:0 UNANIMOUS

Item 6.6.C.3.M - A copy of any proposed deed restrictions intended to cover all or part of subject property.

REASON: There are no known deed restrictions per the deed.

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity.

Mr. Wilkos called for discussion.

Ms. Freedman Moved to Grant a waiver under 6.6.4 for Item 6.6.C.3.M - A copy of any proposed deed restrictions intended to cover all or part of subject property.

REASON: There are no known deed restrictions per the deed.

AND: Strict compliance with the required application submission would be excessive in light of the nature of the proposed activity. The Board also finds that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.

FREEDMAN/DOLLIVER 5:0 UNANIMOUS

Item 6.6.C.3.N.i - Sewer Service Area

REASON: No connection to the existing municipal service is proposed.

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity.

Mr. Wilkos called for discussion.

Ms. Freedman Moved to Grant a waiver under 6.6.4 for Item 6.6.C.3.N.i — Sewer Service Area

REASON: No connection to the existing municipal service is proposed.

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity. The Board also finds that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.

FREEDMAN/HAYES 5:0 UNANIMOUS

Item 6.6.C.3.N.ii - Outside Sewer Service Area — Septic System Design

REASON: No connection to the existing municipal service is proposed

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity.

Mr. Wilkos called for discussion.

Ms. Freedman Moved to Grant a waiver under 6.6.4 for Item 6.6.C.3.N.ii - Outside Sewer Service Area - Septic System Design

REASON: No connection to the existing municipal service is proposed

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity. The Board also finds that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.

FREEDMAN/BEVINS 5:0 UNANIMOUS

Item 6.6. C. 3.0. i — Water Service Area

REASON: No connection to the existing municipal service is proposed

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity.

Mr. Wilkos called for discussion.

Ms. Freedman Moved to Grant a waiver under 6.6.4 for Item 6.6. C. 3.0. i — Water Service Area

REASON: No connection to the existing municipal service is proposed

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity. The Board also finds that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.

FREEDMAN/BEVINS 5:0 UNANIMOUS

Item 6.6.C.3.0.ii - Written Statement from the Fire Chief approving hydrant location or other fire protection measures deemed necessary

REASON: No connection to the existing municipal service is proposed.

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity.

Mr. Wilkos called for discussion.

Ms. Freedman Moved to grant a waiver request under 6.6.4 for Item 6.6.C.3.0.ii - Written Statement from the Fire Chief approving hydrant location or other fire protection measures deemed necessary

REASON: No connection to the existing municipal service is proposed.

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity. The Board also finds that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.

FREEDMAN/BEVINS 5:0 UNANIMOUS

Item 6.6.C.3.0.iii - Outside Water Service Area — Evidence of adequate supply from well

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driller or hydro geologist

REASON: The lot is serviced by municipal water.

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity.

Mr. Wilkos called for discussion.

Ms. Freedman Moved to Grant a waiver under 6.6.4 for Item 6.6.C.3.0.iii - Outside Water Service Area — Evidence of adequate supply from well driller or hydro geologist

REASON: The lot is serviced by municipal water.

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity.

The Board also finds that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.

FREEDMAN/BEVINS 5:0 UNANIMOUS

Item 6.6.C.3.Q - Width and location of any street, public improvements or open space shown upon the official map and in the comprehensive plan, if any, within the site.

REASON: The property is currently developed. There are no public improvements or open spaces that exist on this property.

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity.

Mr. Wilkos called for discussion.

Ms. Freedman Moved to Grant a waiver under 6.6.4 for Item 6.6.C.3.Q, Width and location of any street, public improvements or open space shown upon the official map and in the comprehensive plan, if any, within the site.

REASON: The property is currently developed. There are no public improvements or open spaces that exist on this property.

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity. The Board also finds that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.

FREEDMAN/BEVINS 5:0 UNANIMOUS

Item 6.6.C.3.R - Location of any open space to be preserved and a description of proposed ownership, improvement and management.

REASON: The property is currently developed. There are no open spaces.

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity.

Mr. Wilkos called for discussion.

Mr. Wilkos Moved to Grant a waiver under 6.6.4 for Item 6.6.C.3.R - Location of any open space to be preserved and a description of proposed ownership, improvement and management.

REASON: The property is currently developed. There are no open spaces.
AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity. The Board also finds that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.
WILKOS/FREEDMAN 5:0 UNANIMOUS

Item 6.6.C.3.S - it is required that applicants submit hydrogeologic evaluation and septic designs.

REASON: Waivers for these requirements are requested due to the fact that the site will not require the installation of a well or septic system. The property is serviced by municipal water and sewer.

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity.

Mr. Wilkos called for discussion.

Mr. Wilkos Moved to Grant a waiver under 6.6.4 for Item 6.6.C.3.S - it is required that applicants submit hydrogeologic evaluation and septic designs.

REASON: Waivers for these requirements are requested due to the fact that the site will not require the installation of a well or septic system. The property is serviced by municipal water and sewer.

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity. The Board also finds that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.

WILKOS/FREEDMAN 5:0 UNANIMOUS

Item 6.6.C.3.T - An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours.

REASON: The proposed project is to create additional parking opportunities for the existing restaurants. There are no proposed restaurant expansions with this application.

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity.

Mr. Wilkos Moved to Grant a waiver under 6.6.4 for Item 6.6.C.3.T - An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours.

REASON: The proposed project is to create additional parking opportunities for the existing restaurants. There are no proposed restaurant expansions with this application.

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity. The Board also finds that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.

WILKOS/FREEDMAN

Mr. Wilkos called for discussion.

Mr. Dolliver suggested that the Applicant's reasoning is to create additional parking for the restaurant. This is not a reason to grant a waiver under Section 8.13 which is triggered if the

project generates 50 or more trips per day, or is required to provide 10 or more parking spaces.

Mr. Heyland informed the Board that they might deny the waiver request and ask the applicant to provide additional information about the parking and traffic.

Mr. Dolliver asked if the application involves 10 or more parking spaces.

Mr. Aleva responded that it does not. There are currently 26 parking spaces in that area. Those 26 spaces are going to be wiped out and replaced with 29 spaces. The existing 26 parking spaces do not meet the ordinance dimensional requirements – the stalls are too narrow and the isles are too short. The proposed plan only creates 3 new spaces from what is currently on site, and the spaces will meet the dimensional requirements of the Ordinance.

Mr. Heyland asked how many spaces will be dedicated for paid parking.

Mr. Giarusso responded that he may use all the spaces for paid parking during the day, just as he has for the past five weeks of the summer. People paid for parking and were out of the lot by 4:00 p.m.

Mr. Aleva agreed to prepare a memo breaking down the usage of the parking spaces and how the two uses will interact.

Ms. Bevins asked if there is any problem with getting a traffic study.

Mr. Wilkos noted that not all the parking spaces on the diagram are individually numbered and he wanted to see this done.

Mr. Aleva reiterated that there are currently 26 nonconforming parking spaces on the property, the 29 proposed parking spaces will all conform to zoning requirements.

Mr. Heyland reminded the Board that this application involves more than just the expansion of an existing accessory use, it is also a change of use from accessory restaurant parking to paid commercial parking.

Mr. Wilkos suggested that the use of the parking lot for paid parking during the day may increase traffic in that area.

Mr. Dolliver also suggested that by wiping out the existing 26 nonconforming parking spaces and creating 29 conforming parking spaces the Applicant is creating 29 new parking spaces.

Mr. Aromando summarized that the applicant currently has 26 legally nonconforming parking spaces which are used for Angelina's customer parking. The Applicant will remove those 26 and replace them with 29 conforming parking. The actual increase in parking spaces is three parking spaces.

Mr. Dolliver noted that Angelina's has leased three parking spaces from the new parking lot. If Angelina's were to sell would it be able to meet the required parking?

Mr. Giarusso informed the Board that he wanted Mr. Dolliver recused due to a conflict of interest. Over the course of the summer there has been a disagreement between Mr. Giarusso and Mr. Dolliver, and Mr. Giarusso wanted Mr. Dolliver recused.

Mr. Wilkos informed Mr. Giarusso that he should have brought this concern up before the Board began discussions.

Mr. Wilkos polled the Board asking if Mr. Dolliver should recuse himself:

Mr. Dolliver responded that he feels he can impartially review and vote on this application and he has no conflict.

Ms. Bevins responded that he should not be recused.

Mr. Hayes responded that Mr. Dolliver does not need to recuse himself.

Mr. Wilkos responded that if there is any appearance of conflict the Board member should recuse himself. However he (Mr. Wilkos) feels Mr. Dolliver can be fair and impartial.

It was determined that Mr. Dolliver did not need to recuse himself and the Board members felt he could evaluate and vote on this application without conflict.

Mr. Giarusso informed the Board that his original intent was to provide a safe parking place for his restaurant's customers. However over a month ago people began parking there to go to the beach and he responded by saying that if they were going to park there they had to pay him. It was not his intention to make money, he doesn't need the \$400 a day from the paid parking lot.

Ms. Freedman added that Mr. Giarusso may be providing parking for Angelina's however he is also asking to operate a paid parking lot.

Mr. Dolliver again asked what will happen to Angelina's parking counts if the restaurant were to be sold. Would Angelina's have enough parking spaces?

Mr. Giarusso responded that he has already established a lease between Angelina's Restaurant Inc. and himself as the owner of the new lot. When/if he sells Angelina's the new owner will be informed that he/she will have to pay him (Mr. Giarusso) for the continued use of those three spaces, and that the parking spaces must continue to be leased. The parking spaces, which are currently allocated to the restaurant, will always be allocated to the restaurant.

Mr. Heyland asked how the owner will ensure that the paid parking spaces will be vacated before the restaurant is open for the night. He suggested it be documented in writing.

Mr. Wilkos restated the motion:

Mr. Wilkos Moved to Grant a waiver under 6.6.4 for Item 6.6.C.3.T, An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours.

REASON: The proposed project is to create additional parking opportunities for the existing restaurants. There are no proposed restaurant expansions with this application.

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity. The Board also finds that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.

WILKOS/FREEDMAN 5:0 UNANIMOUS

Item 6.6.C.3.U - A traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering (for project requiring 10 or more parking spaces, or projected 50+ trips per day).

REASON: The proposed project is to create additional parking opportunities for the existing restaurants. There are no proposed restaurant expansions with this application.

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity.

Mr. Wilkos Moved to Grant a waiver under 6.6.4 for Item 6.6.C.3.U - A traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering (for project requiring 10 or more parking spaces, or projected 50+ trips per day.

REASON: The proposed project is to create additional parking opportunities for the existing restaurants. There are no proposed restaurant expansions with this application.

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity. The Board also finds that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.

WILKOS/FREEDMAN

Mr. Wilkos called for discussion.

Mr. Dolliver expressed the same concern he had for the previous waiver request. It is his belief that this project involves 10 or more parking spaces and /or 50 or more trips per day and that the Board should request a traffic analysis.

Mr. Aleva responded that beach parking has a longer turnaround than restaurant patrons. He does not believe that this project will be a big traffic generator.

Mr. Giarusso asked for an explanation of 50 trips per day.

Mr. Heyland responded that 50 trips per day is based on the usage of the lot, how many vehicle trips. It is engineering terminology.

Mr. Giarusso responded that there are 50 trips per day for Angelina's alone, but not for beach parking. He confirmed that when he was charging for beach parking the parking lot was filled by 1:00 p.m. and they were out by 4:30 p.m.

Mr. Aleva offered to prepare a traffic analysis based on ITE Traffic Engineering breakdown between existing and proposed uses. He is confident that there will be a negligible increase.

Mr. Aromando suggested that if Mr. Aleva is willing to prepare the report which will make the waiver unnecessary, he be allowed to do so.

Mr. Dolliver pointed out that Mr. Giarusso himself has stated that the parking lot was full by 1:00, that alone shows the increase in traffic onto and off of the lot, and a traffic analysis is required if the property is within a mile of a failed intersection.

Mr. Heyland responded that the Ordinance states that if 10 parking spaces are required for a project, or if it generates over 50 vehicle trips per day, the Board asks for a traffic study. However the Board may waive this requirement. If the project involves over 30 parking spaces no waiver is allowed. In addition, a study will reveal if the project is within 1 mile of a failed intersection. If that is the case, the project may be denied.

Mr. Aleva reminded everyone that there was a retail building on the property which used those parking spaces during the day. That building is no longer there and the traffic generated by that building's businesses and residence will balance this applicant's request.

Mr. Wilkos restated the motion:

Mr. Wilkos Moved to Grant a waiver under 6.6.4 for Item 6.6.C.3.U - A traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering (for project requiring 10 or more parking spaces, or projected 50+ trips per day.

REASON: The proposed project is to create additional parking opportunities for the existing restaurants. There are no proposed restaurant expansions with this application.

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity. The Board also finds that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.

WILKOS/FREEDMAN 2:3 (Ms. Freedman and Mr. Hayes for : Mr. Wilkos, Mr. Dolliver, and Ms. Bevins against)

Mr. Wilkos noted that the motion failed to pass and the waiver for Item 6.6.C.3.U is denied.

Mr. Aleva agreed to have a traffic analysis ready and submitted to the Land Use Office before the Public Hearing.

Item 6.6.C.3.V - Areas within or adjacent to the proposed site which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the comprehensive plan

REASON: There are no wildlife areas adjacent to this property. The surrounding properties are developed.

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity.

Mr. Wilkos called for discussion.

Ms. Freedman Moved to Grant a waiver under 6.6.4 for Item 6.6.C.3.V - Areas within or adjacent to the proposed site which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the comprehensive plan

REASON: There are no wildlife areas adjacent to this property. The surrounding properties are developed.

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity. The Board also finds that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.

FREEDMAN/DOLLIVER 5:0 UNANIMOUS

Item 6.6.C.3.W - Historic areas within or adjacent to the proposed site which are either listed on or eligible to be listed on the National Register of Historic Places, Ogunquit Historic Register, or have been identified in the comprehensive plan.

REASON: This property is not identified in the comprehensive plan, and is not known to be listed on the National Register. This property and building are not of an age that would qualify for inclusion. The structure has been demolished with the appropriate building permits.

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity.

Mr. Wilkos called for discussion.

Ms. Freedman Moved to Grant a waiver under 6.6.4 for Item 6.6.C.3.W - Historic areas within or adjacent to the proposed site which are either listed on or eligible to be listed on the National Register of Historic Places, Ogunquit Historic Register, or have been identified in the comprehensive plan.

REASON: This property is not identified in the comprehensive plan, and is not known to be listed on the National Register. This property and building are not of an age that would qualify for inclusion. The structure has been demolished with the appropriate building permits.

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity. The Board also finds that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.

FREEDMAN/BEVINS 5:0 UNANIMOUS

Item 6.6.C.3.Y - Stormwater Management Plan

REASON: This project is the creation of a parking area in the location of a previous building. No changes to the storm water patterns on site are proposed.

AND: Strict compliance with the required application submission would unduly burden the applicant.

Ms. Freedman Moved to Grant a waiver under 6.6.4 for Item 6.6.C.3.Y - Stormwater Management Plan

REASON: This project is the creation of a parking area in the location of a previous building. No changes to the storm water patterns on site are proposed.

AND: Strict compliance with the required application submission would unduly burden the applicant. The Board also finds that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.

FREEDMAN/HAYES

Mr. Wilkos called for discussion.

Mr. Aromando asked if the slope of the site will change.

Mr. Aleva responded that it will be very similar and they will be constructing a retaining wall at the rear of the property.

Mr. Wilkos restated the Motion:

Ms. Freedman Moved to Grant a waiver under 6.6.4 for Item 6.6.C.3.Y - Stormwater Management Plan

REASON: This project is the creation of a parking area in the location of a previous building. No changes to the storm water patterns on site are proposed.

AND: Strict compliance with the required application submission would unduly burden the applicant. The Board also finds that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.

FREEDMAN/HAYES 5:0 UNANIMOUS

Item 6.6.C.3.Z - Erosion and Sediment Control Plan

REASON: The project is the creation of a paved parking surface. The house demolition was granted the appropriate permits. During that work erosion controls were installed to prevent sedimentation from leaving the site. The paved parking areas will not require additional erosion controls to finish the project.

AND: Strict compliance with the required application submission would unduly burden the applicant.

Ms. Freedman Moved to Grant a waiver under 6.6.4 for *Item 6.6.C.3.Z, Erosion and Sediment Control Plan*

REASON: The project is the creation of a paved parking surface. The house demolition was granted the appropriate permits. During that work erosion controls were installed to prevent sedimentation from leaving the site. The paved parking areas will not require additional erosion controls to finish the project.

AND: Strict compliance with the required application submission would unduly burden the applicant. The Board also finds that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.

FREEDMAN/HAYES

Mr. Wilkos asked for discussion.

Mr. Aromando asked about the retaining wall.

Mr. Aleva responded that the rear of the site is bedrock and the wall will hold back sedimentation runoff. The wall will also provide a more appealing appearance to the property.

Ms. Freedman Moved to Grant a waiver under 6.6.4 for *Item 6.6.C.3.Z - Erosion and Sediment Control Plan*

REASON: The project is the creation of a paved parking surface. The house demolition was granted the appropriate permits. During that work erosion controls were installed to prevent sedimentation from leaving the site. The paved parking areas will not require additional erosion controls to finish the project.

AND: Strict compliance with the required application submission would unduly burden the applicant. The Board also finds that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.

FREEDMAN/HAYES 5:0 UNANIMOUS

Item 6.6.C.3.AA - Location of any streets, public improvements or open space shown in the comprehensive plan or capital improvements plan, within the site.

REASON: This an existing developed site, no streets, public improvements or open space are proposed or within the property.

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity.

Mr. Wilkos called for discussion.

Ms. Freedman Moved to Grant a waiver under 6.6.4 for *Item 6.6.C.3.AA - Location of any streets, public improvements or open space shown in the comprehensive plan or capital improvements plan, within the site.*

REASON: This an existing developed site, no streets, public improvements or open space are proposed or within the property.

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity. The Board also finds that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.

FREEDMAN/HAYES 5:0 UNANIMOUS

Item 6.6.C.3.BB - Parcels of land proposed to be dedicate to public use and the conditions of such dedication

REASON: There are no areas proposed to be dedicated for public use on this property.

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity.

Mr. Wilkos called for discussion.

Ms. Freedman Moved to Grant a waiver under 6.6.4 for *Item 6.6.C.3.BB - Parcels of land proposed to be dedicate to public use and the conditions of such dedication*

REASON: There are no areas proposed to be dedicated for public use on this property.

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity. The Board also finds that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.

FREEDMAN/DOLLIVER 5:0 UNANIMOUS

Item 6.6.C.3.CC - Location/ Method of Land Clearing and Construction Debris Removal

REASON: The property is currently developed; land clearing has already been completed. The additional work will include the installation of the retaining wall that will require minor excavation. The demolition debris was removed via dumpsters continuously during the work.

AND: Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity.

Mr. Wilkos called for discussion.

Ms. Freedman Moved to Grant a waiver under 6.6.4 for *Item 6.6.C.3.CC - Location/ Method of Land Clearing and Construction Debris Removal*

REASON: The property is currently developed; land clearing has already been completed. The additional work will include the installation of the retaining wall that will require minor excavation. The demolition debris was removed via dumpsters continuously during the work. **AND:** Strict compliance with the required application submission would be excessive in the light of the nature of the proposed activity. The Board also finds that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.

FREEDMAN/DOLLIVER 5:0 UNANIMOUS

Item 6.6.C.3.DD - it is required that applicants submit a cost estimate for setting performance guarantees pursuant to section 4.8.

REASON: Completion of the work will be necessary to conduct business at the establishments, and any delay or failure to complete the work will only have adverse effects on the business owner. It is imperative to have the site clean, safe and completed so as not to impact current business.

AND: Strict compliance with the required application submission would unduly burden the applicant.

Mr. Wilkos called for discussion.

Ms. Freedman Moved to Grant a waiver under 6.6.4 for *Item 6.6.C.3.DD - it is required that applicants submit a cost estimate for setting performance guarantees pursuant to section 4.8.*

REASON: Completion of the work will be necessary to conduct business at the establishments, and any delay or failure to complete the work will only have adverse effects on the business owner. It is imperative to have the site clean, safe and

completed so as not to impact current business.

AND: Strict compliance with the required application submission would unduly burden the applicant. The Board also finds that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.

FREEDMAN/DOLLIVER 5:0 UNANIMOUS

Item 6.6.C.3.EE - State and Federal Permits

REASON: This project does not require State or Federal Permits.

Mr. Wilkos called for discussion.

Ms. Freedman Moved to Grant a waiver under 6.6.4 for Item 6.6.C.3.EE - State and Federal Permits

REASON: This project does not require State or Federal Permits. AND: Strict compliance with the required application submission would unduly burden the applicant. The Board also finds that such waiver will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.

FREEDMAN/DOLLIVER 5:0 UNANIMOUS

Mr. Wilkos reviewed a memo from the Ogunquit Fire Chief dated September 14, 2015 wherein Chief O'Brien recommended the propane tank be put in according to NFPA standard and that bollards be anchored firmly and that they be correct in size and spacing.

Mr. Aleva agreed to indicate such on his plan.

Mr. Dolliver Moved to find the application for DAVID GIARUSSO – 661 Main Street (Map 13 Block 50) General Business District 2 (GBD2). Site Plan Review Application for Change of Use from commercial retail to paid parking lot and accessory parking for abutting restaurant (Angelina's) complete and to schedule a Public Hearing.

DOLLIVER/BEVINS 5:0 UNANIMOUS

Mr. Wilkos informed the applicant that the Public Hearing for this application would take place at 6:00 p.m. on Monday September 28, 2015.

Mr. Aleva agreed and confirmed he will have the traffic analysis and plans into the Land Use Office by Monday September 21, 2015.

3. WAYNE PERKINS /PERKINS COVE LOBSTER POUND – 324 Shore Road (Map 3 Block 4-5) Limited Business District (LBD), pre 1931 structure. Application to amend parking plan which was approved as part of a Site Plan Application on July 27, 2015.

Mr. Wilkos noted that there was no one present to represent the applicant and he recommended the application be tabled.

**Mr. Dolliver Moved to Table the application for WAYNE PERKINS /PERKINS COVE
LOBSTER POUND – 324 Shore Road.
DOLLIVER/HAYES 5:0 UNANIMOUS**

H. CODE ENFORCEMENT OFFICER BUSINESS – None

I. OTHER BUSINESS – None

J. ADJOURNMENT -

**Ms. Freedman Moved to Adjourn at 9:20 p.m.
FREEDMAN/BEVINS**

Respectfully Submitted

Maryann Stacy

Maryann Stacy
Recording Secretary

Approved on September 28, 2015