

OGUNQUIT PLANNING BOARD MINUTES

AUGUST 11, 2014

A. ROLL CALL –

The Roll was called with the following results:

Members Present: Don Simpson, Chair
Rich Yurko, Vice Chair
Jackie Bevins
Muriel Freedman

Also Present: Scott Heyland, Ogunquit Code Enforcement Officer
Lee Jay Feldman, SMPDC, Town Planner
Tom Errico, Town Traffic Consultant
Maryann Stacy, Recording Secretary

B. ELECTION OF OFFICERS –

Mr. Yurko Nominated Mr. Simpson as Chair.

YURKO/BEVINS 3:0 UNANIMOUS (Mr. Simpson abstained from voting)

Ms. Bevins Nominated Mr. Yurko as Vice Chair.

BEVINS/FREEDMAN 3:0 UNANIMOUS (Mr. Yurko abstained from voting)

C. REVIEW AND AFFIRM PLANNING BOARD BYLAWS:

Mr. Yurko Moved to Amend and Readopt the Planning Board By-Laws.

YURKO/BEVINS 3:0 UNANIMOUS (Ms. Freedman excused from this meeting)

D. PLEDGE OF ALLEGIANCE -

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

F. MINUTES – July 14, 2014

Mr. Yurko Moved to Accept the Minutes of the July 14, 2014 Meeting as Submitted.

YURKO/BEVINS 4:0 UNANIMOUS

G. PUBLIC INPUT –

Daniel Bardsley (8 Jacobs Lane) addressed the Board. Mr. Bardsley asked the Board to consider the definition of “family” in the Zoning Ordinance as it applies to the creation and use of “defacto boarding houses”. Mr. Bardsley noted that his neighbor originally had a trailer on his property where he housed his employees. After intervention by the Code Enforcement Officer, the trailer was removed and the house was replaced by a new single family home where the owner continues to house his employees.

Mr. Bardsley reviewed the Zoning Ordinance's current definition of "family" and he suggested that it lacks a defining description of "family relations" and "quantifiable restriction on the number of individuals allowed to occupy a single family home."

Mr. Bardsley proposed another definition which he created from surrounding towns zoning ordinances. He suggested that Boarding Houses are not appropriate for residential areas.

Mr. Bardsley pointed out that the current Town Code does not address the National Fire Protection Association 101 Safety Codes - Lodging and Rooming House Requirements, that Maine Fire Marshals shall inspect Boarding Houses. He noted that the issue isn't only the safety of the occupants of the house but the safety of the first responders.

Because the current definitions of "family, one family, and single family" are inadequate, individuals are allowed to use one family homes as boarding houses and there is no control over how many people may be staying there.

Mr. Bardsley stated that the reasons for disallowing boarding houses in residential districts are: to preserve the social quality of Ogunquit, to provide areas for future residential growth, to prevent the Town from becoming all commercial based with employees residing in single family homes, to prevent the erosion of community and neighborly environment, ensure that property values hold strong, provide adequate parking, and better understand the utilization and demand of utilities such as sewer and water for future residential growth. It is important to prevent residential areas from being redefined at "transient seasonal worker areas".

Mr. Bardsley asked the Board to consider the problem of the increased utilization of single family homes as boarding houses.

Mr. Bardsley submitted documentation outlining his argument, proposed changes to the Zoning Ordinance language, and sources of data (*a copy of which is attached and hereby incorporated into these minutes*).

Mr. Simpson thanked Mr. Bardsley for his input and congratulated him on a well presented argument. He suggested the Planning Board might hold a workshop to discuss the issue, and if appropriate draft language for submission to the Select Board for inclusion on the Town Warrant. The alternative is for Mr. Bardsley to draft a Citizens' Petition and request that his language be submitted to the voters, or he may take his proposal directly to the Select Board and ask that they submit it to the voters on the next Warrant.

Mr. Yurko responded that this is a significant issue and Mr. Bardsley has proposed one approach, which is to more clearly define "family". Mr. Yurko suggested that a more effective approach might be to more clearly define, and set regulations for, "boarding houses".

Mr. Simpson agreed that the immediate goal should be to determine what they are trying to achieve and the best way to get there.

Mr. Bardsley stated that his goal is to preserve the value of his home by not having a defacto boarding house that is for commercial use in a residential area.

Mr. Yurko pointed out that a different, although linked; issue is the rental of single family vacation homes which become overly occupied by more people than they can legally accommodate.

Mr. Simpson asked Mr. Heyland if homeowners who rent their homes seasonally require a permit.

Mr. Heyland responded that the Town requires a Business Registration for weekly or seasonal home rentals.

Emil Masi (67 Agamenticus Road) asked if the language defining “family” and “boarding house” can be reviewed at the same time?

Ms. Freedman asked Mr. Heyland if people who rent out their homes are required to pay a State Tax?

Mr. Heyland responded that they are, however it is outside the Town’s responsibility to confirm that people pay State Taxes. But he does inform people of this responsibility when they come in for their Business Registration.

It was confirmed that a Citizens’ Petition requires the signatures of Ogunquit registered voters.

Mr. Masi responded that there are not many registered Ogunquit voters on Agamenticus Road, and they won’t have a voice.

Mr. Yurko responded that they have a voice in the workshop, at the Planning Board Meeting, and throughout the normal process, however the only individuals who can sign a petition and vote on the issue are Ogunquit registered voters.

Mr. Simpson agreed to speak to the Town Clerk and find out the timeline for submittal of Zoning Ordinance Changes for the next election and he (Mr. Simpson) will contact Mr. Bardsley. He noted that the Select Board can always make changes before they submit the language to the voters.

Ken Walsh (129 Agamenticus Road) asked if the Code Enforcement Officer looks at the code for renting out single family homes and checks to see whether it is allowed in each particular district.

Mr. Heyland responded that it is allowed everywhere and there is currently no clear distinction between a single family home rental and a “boarding house”. It’s a complicated issue.

Mr. Simpson asked if there was anyone else who wished to be heard. No one responded.

H. UNFINISHED BUSINESS –

1. FINDINGS OF FACT for KATHRYN AND JOHN SEWELL – 14 Bridge Street – Map 7 Block 93.

Mr. Yurko Moved to Approve the Findings of Fact for Kathryn and John Sewell as Amended.

YURKO/BEVINS 4:0 UNANIMOUS

- 2. ROBERT AND BARBARA KINSMAN – Bittersweet Lane - Map 21 Block 7-5-632 – Application for Subdivision Amendment. Request to vacate 1977 subdivision plan and adjust an existing lot line.**

Mr. Heyland informed the Board that he visited the site and met with the property owners and they have cleaned up the site to his satisfaction. He noted that there is some remaining material on the site however it is related to Mr. Kinsman's occupation as a lobsterman. Mr. Heyland submitted before and after photographs of the site (which will be maintained in the Applicant's file) illustrating that the site has been "cleaned up".

Mr. Simpson noted that the Approval will use the term "amendment" to the 1977 Subdivision and not "vacating" of the subdivision.

Mr. Yurko Moved to Amend the 1977 Subdivision Plan and adjust the existing lot line as requested by the Applicants.

YURKO/BEVINS 4:0 UNANIMOUS

Attorney Parkinson asked if the Board will be signing the submitted plan for recording at the Registry of Deeds.

The Board confirmed that they will sign the mylar at the next Board meeting.

- 3. OGUNQUIT PLAYHOUSE FOUNDATION – 42 Main Street – Map 5 Block 42 – Site Plan and Design Review for two post 1930 structures. Application for change of use from office space to 5 boarding house units. Demolition of existing hotel and construction of a new 45 unit boarding house. Site improvements to driveways, parking areas, grading, drainage, utilities, landscaping, and lighting.**

Mr. Simpson asked if there have been any fundamental changes to the original proposal as submitted on 22 August 2013.

John Lorden from MSC Engineers responded that there have been several changes:

The original plans were submitted in August 2013.

In October of 2013, after a few meetings with the Planning Board and a technical review with the Fire Chief, they submitted revised plans.

They originally proposed fourteen (14) parking spaces and subsequently obtained an easement on the Playhouse Foundation Lot for an additional thirty-three (33) parking spaces to be located along the north fence line of the parking lot.

They opened up the driveway radius as vehicles enter the site to allow for fire truck access. The exit drive and a drive area at the rear of the building are lawn over gravel. While it appears to be lawn, it is reinforced by gravel and emergency vehicles can safely drive over it.

Mr. Lorden pointed out that there was a time frame when the application was tabled in order to resolve traffic issues. They received input from Tom Errico which they incorporated into the plans. They also revised signage to make it clear that traffic flow was one way circulation through the site. They also added a bike rack with a capacity for 26 bikes.

Mr. Lorden noted that they revised the plans to show a 24' drive aisle. The drive aisle is currently 16.5 feet which has served the past purpose. The Applicant proposed 18' which would require a waiver. To go up to 24' they would need a different waiver for exceeding the allowable lot coverage. The building coverage is 20.6%, if they went up to the 24' the lot coverage would be at 20.3% which is less, but still slightly over the limit. If they were to use a 21' aisle they would be exactly at the 20% allowable lot coverage. However with parking on only one side, and one way traffic flow, they believe that an 18' drive aisle is sufficient.

Mr. Simpson asked if Mr. Heyland and Mr. Feldman are satisfied.

They both agreed that they are satisfied.

Mr. Simpson agreed that he is satisfied with the most recent traffic study.

Mr. Yurko commented that this application has been before the Board for a year, and the process has worked well and is a good example of how things should proceed. There was an initial traffic study, and a review of the study by the Town's Traffic Engineer, and a response to the review. Mr. Yurko noted that the only place of disagreement is whether the traffic will go down or remain constant. He asked if the width of the traffic aisle will have anything to do with the traffic study.

Mr. Errico responded that he is comfortable with an 18' drive aisle, and that the Board would have to issue a waiver given that the Town Standard is 24'.

Mr. Feldman added that the need for a waiver is determined by the Zoning Ordinance. A 90 degree parking layout requires a 24' aisle width because it usually involves two-way traffic. The Playhouse Plan is for one way traffic flow, and an 18' travel way with 90 degree parking and one way traffic flow is more than sufficient.

Mr. Simpson stated that any motion to approve would require: 1) No Building Permit shall be issued until the easement for the offsite parking has been recorded at the Registry of Deeds; 2) no change of use of the property shall occur in the future without further Planning Board approval.

Mr. Yurko suggested that if the property is sold they will have to come back before the Board.

Mr. Feldman noted that the Playhouse may not sell the property but they may change its use.

Mr. Yurko agreed and suggested that language should state that if the use changes to something other than housing for the playhouse the applicant will have to come back before the Board.

Ms. Freedman asked if the property is sold, will the 36 parking spaces be available to the new owners in perpetuity?

Mr. Lorden responded that they would.

Mr. Yurko Moved to Waive the requirement for a 24' drive aisle and permit the Applicant to proceed with an 18' drive aisle.

YURKO/FREEDMAN 4:0 UNANIMOUS

Mr. Yurko Moved to Grant the Site Plan and Design Review Application subject to the following conditions:

- 1. The parking easement is reviewed by Town Counsel and no construction may begin until the easement is recorded at the York County Registry of Deeds;**
- 2. If the use, as housing for the Playhouse employees, changes then the proposed change in use would have to come back to the Planning Board for further review.**

YURKO/BEVINS 4:0 UNANIMOUS

I. NEW BUSINESS –

J. CODE ENFORCEMENT OFFICER BUSINESS –

Mr. Heyland agreed that a workshop to discuss the Boarding house issue is needed.

Mr. Simpson agreed with Mr. Yurko that the best approach is to more clearly define “boarding house” and it would be best to avoid any attempt to label “family”.

Mr. Feldman agreed that it would be best to have the issue go through the workshop process rather than a citizen’s petition. He noted that Mr. Bardsley’s presentation was titled “Stop Boarding Houses In Residential Zones” and that while the definition of “boarding house” may need to be looked at it would be a good idea to consider what zones Boarding Houses should be allowed in. He suggested that the Town may not want to allow Boarding Houses in every zone.

Mr. Yurko responded that there is a housing crisis for summer employees and the Town may want to restrict boarding houses to commercial zones where they won’t bother residential neighbors.

Mr. Feldman agreed that the Board should look at the inventory of what zones that use is allowed.

Mr. Simpson stressed that there are many single family homes being rented out to multiple family units and/or overly occupied.

The Board scheduled a workshop to discuss possible language for boarding house regulation, defining “boarding house”, what zones boarding houses should be permitted to operate in, and the effect on summer employee housing.

K. OTHER BUSINESS – None

L. ADJOURNMENT -

Planning Board Meeting August 11, 2014

**Mr. Yurko Moved to Adjourn at 7:05 p.m.
YURKO/BEVINS 4:0 UNANIMOUS**

Respectfully Submitted

Maryann Stacy

Maryann Stacy
Recording Secretary

Approved on September 8, 2014