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PLANNING BOARD WORKSHOP

DISCUSSION OF THE DESIGN REVIEW PROCESS
Discussion will focus on post-December 31, 1930 buildings.
August 10, 2015

ROLL CALL – 4:30 p.m.

Planning Board Members present: Steve Wilkos, Chairman
Muriel Freedman, Vice Chair
Don Simpson
Rick Dolliver (1st Alternate)

Members Excused: Jackie Bevins
Rusty Hayes
Brian Aromando (2nd Alternate)

Also present were: Scott Heyland, Code Enforcement Officer
Lee Jay Feldman, SMPDC
Maryann Stacy, Recording Secretary
Newell Perkins, Ogunquit Historic Preservation Commission Chair
Sumner Nystedt, Ogunquit Historic Preservation Commission Member

Mr. Feldman submitted a draft of a proposed revision to Article 11 – Design Review.

The Board began the discussion with a review of the terms “Pre and Post 1930”.

Ms. Freedman asked about the use of the term “Pre 1930”. She noted that structures built during 1930 would not fall under required OHPC review.

Mr. Feldman responded that the correct verbiage should be “December 31, 1930”. He asked Mr. Perkins what the significance is of that date.

Mr. Simpson noted that the Ordinance refers to “General Purpose – constructed before December 31, 1930”. Any structure constructed before December 31, 1930 falls under the Historic Preservation Commission’s review.

Mr. Heyland asked if that lines up with the rest of the Ordinance.

Mr. Dolliver pointed out that wherever it says “pre 1930” it means any building constructed prior to January 1, 1931.

Ms. Freedman noted that the Board has always used the “pre 1930” standard for requiring Historic Preservation Commission (OHPC) review.

Mr. Feldman responded that the Ordinance doesn’t say “pre 1930” it says “pre December 31, 1930”.

Mr. Simpson agreed that the intent of the ordinance is to include all buildings constructed in 1930 or before.

The Board agreed that the correct verbiage should be “pre December 31, 1930”.

Mr. Feldman summarized his proposal. He noted that everything the OHPC does in their regulations refers to “Certificates of Appropriateness”. Which is the appropriate term for historic commissions to use when they are issuing a permit.

For post 1930 structures the Planning Board issues a Design Review Certificate. Mr. Feldman noted that the review standards for pre and post December 31, 1930 structures are basically the same. In order to keep things simple and clear Mr. Feldman suggested everything, whether it is pre or post 1930 be issued a Certificate of Appropriateness.

Mr. Feldman recommended the OHPC issue the Certificate of Appropriateness for all pre December 31, 1930 Design Review applications. This would make the OHPC the reviewing authority for all Pre 1931 structures. All the Planning Board would receive is the Certificate of Appropriateness issued by the OHPC. The Planning Board would then agree that the applicant has met the burden. This would relieve the Planning Board of the need to go over the information.

The Planning Board would review post December 31, 1930 structures, using the same standards and make a determination. The Planning Board would then issue its own Certificate of Appropriateness. Anything pre 1931 would be reviewed by the OHPC which would then provide the Certificate of Appropriateness to the Planning Board. Anything post December 31, 1930 would be reviewed by the Planning Board only and the Board would issue the Certificate of Appropriateness.

Mr. Simpson expressed concern about taking authority away from the Planning Board. He reminded everyone that the OHPC is not an authoritative Board; they provide recommendations to the Planning Board which makes the determination. He also suggested that the proposed protocol changes would complicate the application process and further confuse applicants.

Mr. Heyland disagreed. He suggested that if an applicant has a very simple proposal, such as the Wild Blueberry which had to come before the Planning Board to put a small awning over its back door, they could go directly to the OHPC which could issue the Certificate of Appropriateness saving the Applicant the need for a full Design Review Application. The Certificate of Appropriateness would be presented to the Code Enforcement Officer along with an application for a Building Permit. This situation would only apply to very small, simple Design Review applications.

Mr. Dolliver suggested that if an applicant puts together a proposal that meets all Zoning requirements, then brings the proposal to the OHPC which refuses to issue the Certificate of Appropriateness, then the applicant has wasted his/her time as well as the time of the OHPC members.

Mr. Feldman added that if the Applicant is refused by the OHPC an appeal might be made to the Planning Board.

Mr. Heyland responded that the Design Review process, by its very nature, is interpretive. It is not like dimensional standards which are clearly expressed. Design Review is more subjective.

Mr. Feldman added that the current process requires the owner of a pre 1931 structure to first go to the OHPC which may require some back and forth negotiation before the OHPC is ready to give the proposal its approval. Then the applicant has to come before the Planning Board and go through the entire process again, and in the end the Planning Board may or may not agree with the OHPC's recommendations.

Mr. Dolliver said he could support this process as long as the OHPC follows the same plans and sets of regulations the Planning Board would. If the OHPC can make decisions based on some feeling that they don't like the proposal, he has a problem.

Mr. Feldman responded that the current Design Review process for pre 1931 buildings is somewhat subjective; this is because the current ordinances are not "standard driven".

Mr. Wilkos asked if the Planning Board would no longer do Design Review for pre 1931 structures.

Mr. Feldman responded that it would not. The Planning Board would only do Design Review for post December 31, 1930 structures.

The Board members all expressed concern with this.

Mr. Simpson stated that this would put authority in the hands of the OHPC that the voters did not give them when that ordinance was passed. He asked the Board to consider whether or not it wants to give authority to the OHPC that currently belongs to the Planning Board?

Ms. Freedman asked how OHPC feels about it, will they collect a fee?

Mr. Heyland responded that he sees the process being very similar to what it is now. The change would be that the applicant would go to the OHPC not the Planning Board. He added that a more formal Certificate of Appropriateness would have to be issued by the OHPC instead of the recommendations memo, or minutes, it currently provides to the Board.

Mr. Perkins stated that the amount of review time for the OHPC would stay the same. He informed the Board that currently there is no funding for the OHPC. Everything they produce is at Mr. Perkins' cost: printing, copying, mailing, etc. he pays for it all. A budget for the OHPC would have to be put in place. He agreed that the Certificate of Appropriateness is the correct way to proceed. He noted that other towns issue these certificates for properties with historic value to the town.

Mr. Heyland asked if those certificates then go to the Planning Board or to the Code Office as part of the building permit application.

Mr. Perkins did not know.

Mr. Simpson suggested the Planning Board Chair might have a conversation with the Select Board Chair to see how they would feel about the proposed change and funding for the OHPC.

Mr. Wilkos agreed but suggested the Planning Board needs to determine its feelings about the proposed changes first.

Sumner Nystedt addressed the Board and stressed the need for the OHPC and the Planning Board to work together to follow the vision as expressed in the Comprehensive Plan.

Mr. Wilkos agreed but suggested that any Certificate of Appropriateness issued by the OHPC needs some type of follow-up by the Planning Board.

Mr. Feldman suggested that if this is how the Board feels then no changes need to be made because this is the way things are currently done.

Mr. Wilkos pointed out that the OHPC does not currently issue a Certificate of Appropriateness. He suggested this might be built into the existing ordinance.

Mr. Wilkos suggested a Certificate of Appropriateness, issued by the OHPC, be added to the Planning Board's Design Review Application Submission Checklist for proposals involving pre 1931 structures.

Mr. Dolliver agreed to adding the OHPC Certificate of Appropriateness to the Design Review Checklist and if an applicant comes before the Planning Board with an application involving a pre 1931 building, and they do not have that certificate then the application is deemed incomplete and the application is tabled.

Mr. Feldman explained that a Certificate of Appropriateness is the final authorizing documentation, if the Board wants the OHPC's recommendations then they should keep the process the way it is, and the Planning Board would issue a Certificate of Appropriateness.

Mr. Heyland referred the Board to Article 11.6 regarding the Design Review Checklist.

Mr. Feldman suggested the Board focus less on checking off the items on the Design Review Checklist and focus more on the substance of the submissions and their appropriateness to the project and the neighborhood. He referred the Board to Article 11.7.C – Design Guidelines which is what is used by the OHPC and the Planning Board for Design Review.

Mr. Wilkos stated that there is nothing else that needs to be reviewed other than Article 11.7.C to obtain a Design Review Certificate.

Mr. Heyland stressed that there needs to be some form of document from the OHPC confirming that they have reviewed the proposal and have given it their blessing. This may come after more than one meeting between the applicant and the OHPC where they have negotiated with each other to come to a mutually agreed upon proposal.

Mr. Wilkos asked Mr. Feldman what he recommends for post 1931 structures.

Mr. Feldman suggested no changes, the OHPC would not be involved in post 1931 structures.

Mr. Perkins agreed that OHPC doesn't need to be involved in a review of post 1931 structures. He added that it is difficult to link newer buildings into the historic review process.

Mr. Heyland noted that his problem has been determining what pre 1931 projects are applicable for review. Strict following of the Ordinance would require every single small change to come before the Planning Board. He now has a clearer understanding that every single pre 1931 structure comes for review.

Mr. Wilkos asked why the OHPC doesn't review all Design Review Applications both pre and post 1931.

Mr. Heyland responded that this would be an enormous workload.

Mr. Wilkos asked about a scenario where a post modern building is proposed to be built in a historic neighborhood.

Mr. Feldman responded that it would be reviewed for neighborhood historic significance.

Mr. Dolliver asked if that applies to pre and post 1931 buildings.

Mr. Simpson asked about the replacement of the Blue Water Inn which recently burned down. He noted that this was a pre 1931 structure but it is completely gone. What body, Planning Board or OHPC, reviews the proposal for the new building?

Mr. Heyland asked: what if the applicant wants to build a modern looking glass box there?

Mr. Perkins stated that the OHPC would fight very hard to have the new building replicate the previous structure. He stated that the building cannot be rebuilt unless it is built onto the existing footprint, on wharf pilings, and it would need to look like the previous building as seen from the street.

Mr. Heyland disagreed, he stated that the new building would have to meet setbacks, floodplain requirements, etc however the façade could look very different from the old Blue Water Inn and still meet all the other standards. He asked: where is the authority in the Ordinance that requires the owner of that property to come before the Planning Board for Design Review?

He stated that the ordinance needs to be more specific regarding post December 31, 1930 structures.

Mr. Dolliver stated that he has an issue with pre and post 1931 buildings and historic significance. It is his opinion that any building, regardless of when it was built, may be historically significant to the Town or it may be next to a historically significant building.

Mr. Dolliver asked about a 1932 structure that sits next to a historically significant property. Currently the Planning Board could act on an application for that 1932 building without input from the OHPC.

Mr. Heyland suggested forwarding all design review changes to the OHPC for their input and advice as to whether or not it should require Design Review.

Mr. Wilkos stated that OHPC needs to put their recommendations in writing.

Mr. Perkins agreed and confirmed that it is common to have a building constructed in the 1940's or later, next to a historically significant building. The owners of the 1940's building could do whatever they please without going through the OHPC review process.

Mr. Heyland asked Mr. Perkins if he could send post 1931 structures to the OHPC for recommendations.

Mr. Perkins agreed.

The Workshop was closed at 5:30 p.m.

Respectfully Submitted

Maryann L. Stacy

Maryann Stacy

Recording Secretary

Approved on August 24, 2015