

# MINUTES

## PLANNING BOARD WORKSHOP

*DISCUSSION OF THE DESIGN REVIEW PROCESS: focus on pre-1931 and post-1930 buildings.*

**September 14, 2015**

**ROLL CALL** – 4:30 p.m.

Planning Board Members present: Steve Wilkos, Chairman  
Muriel Freedman, Vice Chair  
Rusty Hayes  
Rick Dolliver (1<sup>st</sup> Alternate)

Members Excused: Don Simpson  
Jackie Bevins  
Brian Aromando (2<sup>nd</sup> Alternate)

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

Mr. Wilkos noted that the Board has held four previous workshops regarding the Design Review process. The Town Planner, Lee Jay Feldman has recommended the Ogunquit Historic Preservation Commission review applications involving pre 1931 structures and issue a Certificate of Appropriateness for Design Review proposals that involve anything built prior to December 31, 1930.

Mr. Wilkos asked Mr. Heyland and Mr. Feldman their opinions on this proposal.

Mr. Heyland noted the recent complications between the OHPC and the Planning Board. He suggested the focus needs to be on how the OHPC communicates its comments back to the Planning Board. Mr. Heyland pointed out the most recent OHPC input to the Planning Board which stated that they did not like the proposed design, and offered no constructive input or suggestions as to what might improve the plan. He also suggested that the OHPC may not be in a position to discuss architectural suggests such as dormers, windows, grill patterns etc.

Mr. Heyland reminded the Board that at the beginning of these discussions he was leaning toward giving the OHPC more authority to take over review of pre 1931 structures, however given recent events he is now uncomfortable with giving the OHPC more of a determining role in the Design Review process. He suggested the protocol remain as it currently is. Applications involving a pre 1931 structure will be submitted to the OHPC and they will remain in an advisory capacity offering their recommendations and concerns to the Planning Board.

Mr. Feldman agreed that he initially recommended that projects involving pre 1931 structures would receive a Certificate of Appropriateness from the OHPC allowing them to by-pass the Planning Board Design Review. Once the OHPC issued the Certificate the applicant could proceed directly to the Code

Enforcement Officer for a building permit. He has seen over the last four meetings that the consensus seems to be against this change in protocol. It appears that the best approach is for the OHPC to continue acting in the capacity they have been up until now. Applicants will go through the OHPC for a recommendation to the Planning Board. He also suggested a narrowing of the focus of which post 1931 structures need to come before the Board for review. Mr. Feldman expressed his opinion that not every post 1931 structure needs to come for Board review. Perhaps the Board might designate certain corridors or districts which would trigger Design Review of post 1930 structures and exclude others.

Mr. Wilkos asked for comments to focus on pre 1931 structures. He asked Mr. Heyland if he would like to see things remain as they currently are.

Mr. Heyland responded that he would like to see things remain the same with respect to pre 1931 buildings. The OHPC would review applications and submit comments, recommendations, and concerns to the Planning Board for its consideration. His concern is also with the timeline involved in getting a complete application packet into the Board members' hands.

Mr. Feldman added that pre 1931 structures would receive a Certificate of Appropriateness from the OHPC which would be submitted to the Planning Board.

Newell Perkins, OHPC Chair agreed with Mr. Feldman. He noted that the voters did not authorize the OHPC to make decisions. The OHPC is an advisory commission. He agreed that Design Review should remain under the purview of the Planning Board.

Mr. Perkins informed the Board that the Board is failing the residents with regard to Article 11 Design Review. He asked the Board members to review the Planning Board Mission Statement, specifically items 2 and 4:

- Considering input from the Land Use Office, concerned residents and various town committees such as the Historic Preservation Commission and the Conservation Commission.
- Protecting and enhancing our historical and environmental treasures and safeguarding the visual charm of Ogunquit for future generations.

Mr. Perkins added that it is rare for the Board to openly discuss the input from these commissions. He also stated that it is rare for the Board to openly discuss with the applicant the possible additions and/or subtractions to proposed plans which would be more palatable.

Mr. Perkins suggested that the Board let applicants know that it would improve the prospect of approval if the applicant makes concessions to designs which would improve the palatability of the final product.

Mr. Perkins referenced Article 11. He stated that the Board fails to undertake communication and bargaining with the applicants to achieve the best possible outcome for the Town. Mr. Perkins went on to say that members of the: Select Board, Planning Board, Zoning Board of Appeals, Conservation Commission, and OHPC not be seated until they are fully acquainted with the Town's Comprehensive Plan.

Mr. Perkins stated that he is appalled to know that some members of the Select Board and Planning Board have not read the Comprehensive Plan.

Mr. Dolliver asked how he knows this.

Mr. Perkins responded that this would be a difficult question to answer. He suggested that:

1. Each Planning Board members must persist in entering into discussions with applicants regarding how to improve projects for the best possible result for the Town, in keeping with the Comprehensive Plan;
2. The Board should refuse to approve unacceptable changes and require applicants to return with better, less detracting, applications;
3. For each application, which requires a Planning Board vote, the Code Enforcement Officer and/or Town Planner should attach a list of all applicable Ordinance articles.

Mr. Perkins blamed the current lack of cohesiveness between the Board, the Code Enforcement Office, and the OHPC on the town attorney, Natalie Burns. Ms. Burns expresses the attitude that the Board should stay away from controversial decisions and avoid confrontational zoning decisions, and avoid any zoning decision which may involve court.

Mr. Perkins informed the Board that the OHPC is meeting with the Select Board to confirm the hiring of an attorney specializing in historic preservation. This should resolve the problem of the Planning Board's placing faith in the validity of Title 11 and Article 11. Mr. Perkins stated that a former Planning Board Chairman is notorious for pointing out the weaknesses of Title 11 which is the basis of Article 11. This will certainly stop with the hiring of an attorney who is versed in historic preservation law.

Mr. Perkins suggested that the addition of the Residential Zones to the Design Review process would be a waste of time. He stated that the OHPC will continue to submit its input to the Planning Board and if the Board members are willing to spend more time with the Comprehensive Plan and Design Review Article the Board will have more positive outcomes with the applicants.

Regarding the most recent OHPC review of a Planning Board Application. Mr. Perkins stated that the OHPC is not in a decision making position. They are responsible for giving the Board a review and best opinion of why a particular design does not work or fit and is not good for Ogunquit. It is the Planning Board's duty to move ahead and grind the applicant, because the Board has the authority. Applicants know that the OHPC does not have authority. It is only when OHPC meets with applicants that beneficial dialog happens and projects move along more effectively.

Mr. Wilkos thanked Mr. Perkins for his input. He also noted that it is not helpful when the Board receives the OHPC's memo on the day of the meeting. He also pointed out that memos need to be clear. They need to make reference to historical, architectural, and neighborhood significance. To simply inform the Board that the OHPC doesn't like the design isn't enough. The OHPC needs to include recommendations as to what might be changed to improve the design. The Planning Board looks to the OHPC for advice.

Mr. Perkins stressed that the OHPC is a volunteer commission that only meets twice a month at established dates. If the Planning Board is looking for the OHPC to meet at the whim of an applicant, that isn't going to happen.

Mr. Wilkos asked how the process may be improved.

Mr. Heyland suggested that the applicants might have to meet with the OHPC, and obtain a memo to the Planning Board from the OHPC which must be included in the application packet before it is placed on a Planning Board agenda. No Planning Board application will be accepted by the Land Use Office unless it includes a letter from the OHPC. Mr. Heyland noted that this may add an additional week or two to the review process.

Mr. Wilkos agreed that it may lengthen the process but this is OK.

The Board members agreed that it will be a requirement that applicants must meet with the OHPC before they may submit a Planning Board Application.

Mr. Heyland agreed and noted that there may be resistance from the applicants.

Mr. Dolliver responded that people will become adjusted to it and plan their submissions accordingly.

Mr. Hayes informed the Board that when he was a contractor in Massachusetts there was a signoff sheet he was given. He had to present the plans and get various boards etc to sign off, and that completed signoff sheet had to be included with any application. He knew he had to do it and while it did lengthen the process he knew it was a requirement and he got it done.

Mr. Heyland asked if the applicant will be required to satisfy the OHPC before coming to the Board or will they only have to submit the application plan and obtain a recommendation / concern letter from them.

The Board agreed that the applicant doesn't have to satisfy the OHPC, the applicant only has to submit the application for review and obtain an input letter from OHPC to the Planning Board.

Mr. Wilkos asked Mr. Perkins what the OHPC would like the Planning Board to do when an applicant refuses to amend the application to meet the OHPC's suggestions.

Mr. Perkins responded that the Board has suggested that it would like to see recommendations from the OHPC. The OHPC is not in the business of redesigning architectural plans. It is totally up to the applicant to hire a designer who can put interest into a building to make it appear that it has roots, history, and charm in accordance with the neighborhood. He suggested the Planning Board refuse to approve an unacceptable plan and have the applicant return with a better plan.

Dave Barton addressed the Board. He agreed with Mr. Perkins recommendations. He reminded the Board of past projects which were made more appropriate to the Town by input from the OHPC. He agreed that applicants need to come to the OHPC well before being submitted to the Planning Board. If applicants know that they will have to present their plan to the OHPC before going to the Board they

may come in early in the process and work with the OHPC to develop a plan that enhances the Town's charm.

Mr. Heyland asked the Board what he should do when the applicant comes to him with negative input from the OHPC.

Mr. Wilkos suggested the applicant be encouraged to return to the OHPC and try to work things out. If the two parties cannot come to an agreement it comes to the Planning Board in the form the applicant chooses.

Mr. Heyland summarized that every application involving a material change to a Pre 1931 structure on: Rt 1, Main Street, Shore Road, Perkins Cove, Main Beach, and anywhere else that requires Design Review must go before the OHPC before submitting an application to come before the Planning Board.

Mr. Perkins responded that the OHPC meeting dates will be posted. When the applicant meets with the OHPC there will be discussion and input provided to the Board.

Mr. Heyland asked Mr. Perkins if there is any desire by the OHPC to review any post 1931 property, such as properties adjacent to pre 1931 or historically significant structures.

Mr. Perkins responded no. Until the current issues are resolved they will only review pre 1931 structures. Applicants need to understand that they need to participate with the OHPC, and the Board needs to hold significant discussions with the applicant to develop appropriate design plans.

Mr. Wilkos asked Mr. Perkins to include statements of : historical, architectural, and neighborhood significance in all memos to the Board.

Mr. Perkins agreed.

Mr. Barton stated that Ogunquit is the only town he has been involved with where board members can hold a meeting and never mention the Comprehensive Plan. He reminded everyone that the Comprehensive Plan is case law. He has asked to have the Comprehensive Plan rewritten to make it more readable.

Mr. Feldman responded that when the Comprehensive Plan was done for Ogunquit State Law required the Plan be reviewed and found consistent with State Law by the State Planning Office. Since that time the State Planning Office no longer exists. The structure of the law still outlines what towns need to have in the Comprehensive Plan but there is no longer anything that requires the plan be reviewed and found consistent by the State. This frees up communities to think outside the box. He noted that he recently completed a draft form of the Wells Comprehensive Plan which is being reviewed. That process took one year.

Mr. Wilkos adjourned the workshop at 5:30 p.m.

Respectfully Submitted

*Maryann Stacy*

Maryann Stacy -Recording Secretary.

*Approved on September 28, 2015*