



Mr. Perkins suggested that any pre 1930 structure, proposed for demolition, be first reviewed by the OHPC and then come before the Planning Board for approval. This is not to tell property owners what they can do with their property, it is to give the OHPC and the Code Enforcement Officer the opportunity to have a meaningful discussion with the property owner about designs for any new construction.

Mr. Heyland asked about Design Review of new additions to existing pre 1930 buildings.

Mr. Perkins responded that they would be handled the same way as they have been regarding the additions appropriateness to the historic nature of the structure and the neighboring buildings. He argued that all pre 1930 structures are as important as those on Shore Road or the center of Town, and their loss or improper modification downgrades the entire town.

Ms. Freedman asked if the “The District” could be defined two ways, as: A) Pre 1930 and B) post 1930.

Mr. Heyland responded that Ogunquit’s zoning is solid zoning, there are no overlays, and many of the areas are not “in the District”. He noted that the Stickamayka project was reviewed under “historic neighborhood significance”. He added that Article 11 also states that “or the district in which a use structure or building is subject to the requirements of this article lays”. He interprets this as applying to anything pre 1930 in all districts.

Ms. Freedman added that she would like to see “material changes” listed. She asked Mr. Heyland what towns, similar to Ogunquit, have effective Design Review guidelines.

Mr. Heyland and Mr. Perkins responded: Portsmouth, York, and Isle Borough, all have good review standards.

Mr. Heyland added that the more stretched the Ordinance becomes the more watered down it becomes, and in the end is often discarded when it becomes overly vague or burdensome. He noted that the more concentrated the area the more power to regulate.

Mr. Wilkos asked Mr. Heyland to get samples of other towns’ Design Review Ordinances. Mr. Heyland agreed to get three or four samples for the next workshop.

Mr. Perkins pointed out that the current Ordinance language also says that if the change can’t be seen from a public way then it doesn’t require Design Review.

Mr. Heyland suggested that the current language seems to indicated that it encompasses anything that can be seen from Shore Road, whether it is pre 1930 or not. Article 11.3 refers to any demolition of a building, even post 1930 structures, whether or not it is visible from Shore Road. He asked if Article 11 may need to be completely rewritten or only amended. He again noted that it will be important to define where it will be applied, if it becomes too wide-reaching it may become overly burdensome and discarded.

Mr. Heyland again agreed to provide samples of four or five towns with effective Design Review Ordinances.

Mr. Perkins suggested that there may be a rush of restaurants to come before the Board for outside dining/serving. He asked the Board to take the time to consider buffering between outside diners and people walking along the sidewalk or driving on Shore Road. He suggested that having dining tables almost up to the Shore Road sidewalk with no buffering will dramatically change the appearance of the Shore Road area. He expressed concern about “sidewalk dining” all the way from the center of town to Perkins Cove.

Mr. Heyland asked if outside patios should require Design Review. He noted that Article 11 Definition of Material Change refers to: walks, driveways, etc. But it doesn’t specifically list patios.

Ms. Freedman suggested listing all the things that will require Design Review, including patios.

Mr. Heyland warned that requiring Design Review for everything will be overly burdensome and there will be a negative response from the public and town businesses.

Mr. Perkins responded that the issue of Design Review has been ruled on by the Courts enough that it is clear they want to see the Planning Board following a standard protocol step by step.

Mr. Heyland referred to Article 3.2.C which states in part: “any material change of the exterior appearance of existing buildings, driveways, or parking areas within The District by additions, reconstructions, or alterations only if it is visible from a public street or public way.” He suggested that Material Change talks about walkways, however Section C only refers to buildings, parking, or driveways.

Mr. Perkins reminded the Board that the OHPC can make recommendations, however it has no real power.

Mr. Walsh agreed that no one on the Board is an attorney, and that any language they intend to make “law” should be reviewed by an attorney. He would like to see the language simplified and still be legal.

Mr. Heyland reminded everyone that two attorneys can interpret language in totally different ways, and the only real interpretation, with final authority is the Court.

Mr. Wilkos agreed that listing every item that requires Design Review would make it easier to determine what does, and does not, require Design Review.

Mr. Perkins noted that liquor laws require some type of barrier between consumers and the public.

Mr. Heyland responded that “barrier” can be as simple as a sign or rope, it doesn’t have to be a solid barrier.

Mr. Walsh suggested a business owner would want a barrier.

Ms. Bevins added that she prefers a barrier between diners and the public to contain what happens in the dining area, and to prevent people from walking off without paying. But every business owner may want a different thing.

Ms. Freedman stressed the standard that Design Review is required for anything visible from a public road, or public right-of-way. And any property on Shore Road should have to come before the Planning Board if they want to make any material change.

Mr. Heyland agreed that building alterations should come before the Board, but he becomes nervous when landscaping changes may need Planning Board review. He asked if a business wanting to remove shrubs should require Design Review?

Mr. Heyland reminded the Board that it is his job to interpret the Ordinance until the Zoning Board of Appeals reverses his ruling, or the Court does. He attempts to use his best judgment on a case by case basis to determine if an application requires Design Review.

Ms. Bevins argued that any outside dining along Shore Road should require Design Review.

The Board agreed with her.

Mr. Walsh asked about the process for drafting ordinance language.

Mr. Heyland responded that usually the Planner will draft the language at the Planning Board's request, it is then reviewed by the Planning Board and amended until agreed upon.

Mr. Perkins suggested that you don't start with the attorney, you turn to the attorney with a finished product and ask if the language, as written, is legal.

Mr. Wilkos suggested that the Article 11 section regarding Design Review should be completely rewritten.

Most Board members agreed.

Mr. Perkins pointed out that the Design Review Checklist is a very good one, it has been proven and upheld by the Courts.

Mr. Heyland summarized that he will put together as much information as possible from towns comparable to Ogunquit. He suggested one more workshop, then Mr. Feldman come to a meeting and begin to draft language at the Board's instructions. The final product will be reviewed by the Town Attorney for legal interpretation.

It was noted that the restaurants along Shore Road wanting to change from Type 1 to Type 2 will have to come before the Board for Site Plan Review because there will be an enlargement of their dining seating capacity. They may not need Design Review because most of them are not making any material changes.

Ms. Freedman argued that the Board should wait to review Ordinance changes until after the Select Board appoints the new Planning Board members on July 7<sup>th</sup>. She suggested the next workshop be scheduled for July 13<sup>th</sup> when these new Planning Board members will be seated and can participate from the beginning.

The Board agreed to wait until the July 13<sup>th</sup> meeting date for the next workshop regarding the Design Review. The next workshop was scheduled for July 13, 2015 4:30 to 5:30 p.m.

Mr. Wilkos summarized that Design Review will be the first priority topic for workshop discussion.

The Board agreed that the next topic for discussion, after Design Review, will be Boarding House Regulations.

Mr. Heyland noted that the NFPA Life Safety Code discusses a “building with a family with no more than three outsiders is a single family house” a building with a family with four or more outsiders shall be regulated as a boarding house”. He stated that the critical terms are “family” and “outsider”.

Mr. Walsh asked “what is the definition of family?”

Mr. Heyland responded that the Ordinance currently defines” family” in Article 2 as “One or more persons occupying a dwelling unit and living together as a single housekeeping unit where all occupants have common use and access to all living and eating areas, bathrooms, and food preparation and serving areas”.

Mr. Heyland suggested taking the two Life Safety Code sentences and inserting them into the existing Boarding House Definition. He noted that there is no universally accepted definition of “family”.

Mr. Heyland suggested they examine the problem first and then look at the language to address the problem. He suggested they might use the square habitable footage of a house and how many individuals may legally live in that space. They may then use that number as the maximum number of people who may live in a particular building regardless of their relationship to each other.

Mr. Heyland added that the ordinance does not address locks on individual bedroom doors or the number of refrigerators permitted.

Mr. Walsh pointed out that the boarding house on Agamenticus Road was owned by a business.

Mr. Heyland agreed that a business operating in a residential zone may be a problem the Board should look at.

Mr. Walsh suggested that a single family home rented out by the week during the summer season is not a business.

The workshop was adjourned at 5:45 p.m.

Respectfully Submitted

Maryann L. Stacy

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Recording Secretary

*Approved as Amended on July 13, 2015*