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**OGUNQUIT PLANNING BOARD MINUTES
MONDAY DECEMBER 12, 2016**

REGULAR BUSINESS MEETING

A. ROLL CALL –

Members Present: Steve Wilkos (Chair)
 Don Simpson (Vice Chair)
 Muriel Freedman
 Jackie Bevins
 Rusty Hayes

Members Excused: Mark MacLeod (1st Alternate)

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

Mr. Wilkos confirmed that all cell phones were off the table, and that a quorum was present.

B. PLEDGE OF ALLEGIANCE -

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

D. MINUTES - November 14, 2016 ORA Workshop and November 28, 2016 Meeting.

Mr. Hayes Moved to Table Acceptance of the November 14, 2016 Workshop Minutes pending review of the video/audio recording to confirm content.

FREEDMAN/BEVINS 5:0 UNANIMOUS

Mr. Simpson Moved to Accept the Minutes of the November 28, 2016 Meeting as Submitted.

SIMPSON/BEVINS 5:0 UNANIMOUS

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

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

Marsha Northrop (2 Fieldstone Lane) asked the Board to consider the change to the windows on the Blue Water Inn on the west side which faces the river. She stated that the windows which were approved by the Planning Board were not the windows which have been installed. She asked what happens when an approved design is not what is built. She asked if the Code Enforcement Officer would stop work on the project until it comes back on the Planning Board's agenda.

Mr. Wilkos responded that after a Planning Board Approval, anything that is built becomes an enforcement issue.

Mr. Heyland added that the windows which were ordered and installed, and some of the doors, are different from what was approved by the Board. On December 9th he sent a Notice of Violation for noncompliance to the property owner. He (Mr. Heyland) did not feel it was appropriate to place a Stop Work Order on the project because of interior work being done. The Applicant currently has an architect redrawing the building, with the new windows, and he will come back before the Planning Board with a new Design Review Application. Mr. Heyland will not be doing any further inspections until the new design comes back before the Board, and it will be up to the Board to either approve or deny the new designs.

The Applicant will come back before the Board with a new Design Review, there is no Ordinance clause allowing for an amendment to Design Review. Mr. Heyland added that as a new Design Review it will be reviewed by the Historic Preservation Commission. It will be up to the Planning Board to determine whether or not a Public Hearing will be held, however the public is able to express their opinions and suggestions via e-mail or correspondence to the Board at any time. This should be done through the Land Use Office.

Mr. Wilkos confirmed that holding Public Hearings for Design Review is at the discretion of the Board.

Ms. Northrop asked Mr. Heyland about the status of putting CAD Designs on the Town Website.

Mr. Heyland responded that it would take more resources than the Town currently has. His concern is the danger of the public having incomplete information. It has been determined that, at this time, this is not a feasible option.

Mr. Heyland added that a proposal could be prepared and presented to the Budget Review Committee. He asked her to send him a proposal via e-mail which he will present to the Town's IT Person.

Kristen Arnold (18 Highland Avenue) asked the Board to consider the scheduling of the Weekly Home Rental Workshop for a time when more members of the ORA are available. She suggested the week of February 20th.

Mr. Wilkos responded that workshops will be scheduled later at this meeting during "Other Business".

F. UNFINISHED BUSINESS –

1. **FINDINGS OF FACT FOR: HOOKS CHILL AND GRILLE / RACHEL ANASTAS – 696 Main Street – Map 10 Block 5 – GBD1/SLC. Site Plan Review for a post December 31, 1930 structure. Application for foundation with basement for storage, relocation of food preparation room, updating dish-room and kitchen. Installation of a new hood system and fire suppression system, and new roof.**

**Mr. Simpson Moved to Accept the Findings of Fact for Hooks Chill and Grille / Rachel Anastas – 696 Main Street – Map 10 Block 5
SIMPSON/BEVINS 5:0 UNANIMOUS**

G. NEW BUSINESS –

1. **RENATA MOON LLC dba THE PUFFIN INN – 433 Main Street - Map 14 Block 16 – GBD2. Design Review and Site Plan Review for a pre 1931 structure. Application to remove existing garage and replace it with a new structure: garage with two units and an owner’s quarters above.**

The Applicant asked the Board to accept a hand drawn floor plan of the inn.

The Board reviewed the submission and determined that it did not contain sufficient information.

Mr. Simpson noted a lack of dimensions and scale. He asked for a drawing of similar quality to the drawings which were presented as part of the original application.

**Mr. Simpson Moved to reject the drawing
SIMPSON / HAYES 5:0 UNANIMOUS**

Timothy Pesterzik (433 Main Street) addressed the Board as the applicant.

Mr. Pesterzik summarized that they are asking to remove an existing garage and construct living quarters for their family.

Tracey Charpentier added that the project involves demolishing a post 1930 structure. The main building is a pre 1930 structure which has been reviewed by the Ogunquit Historic Preservation Commission (OHPC).

Mr. Heyland confirmed that the building (garage/carriage house) to be demolished is a post 1930 structure, however the project did require review by the OHPC because of the historical significance of the main building (Puffin Inn) and the district in which it is located.

Jamie Bacon – Great Hill Survey Company outlined the proposed project. The total lot size includes 25,000 square feet. Mr. Bacon indicated the location of the proposed new structure and small shed as drawn on the site plan. Mr. Bacon suggested the total room count in the original inn was eleven rooms. He noted that they will create fifteen parking spaces, and in that zone the requirement is one parking space per room, and two parking spaces for the owner’s quarters.

Mr. Wilkos asked how many rooms the inn currently contains.

Mr. Bacon responded that according to Town records there are eleven guest rooms. This project will involve removing the owner's quarters from the main building and relocating them into the new structure/carriage shed. There are currently two guest units in the carriage shed. This means they will not be adding any new units, however they are adding two (2) parking spaces.

Drainage will be handled on site which is mostly ledge. They intend to retain the existing pine trees.

Mr. Wilkos stated that the Board's action tonight is to determine application completeness and if found complete to schedule a public hearing and site visit, and to review the OHPC's Memo to the Board. He asked Mr. Feldman to review his memo to the Board.

Mr. Feldman reviewed his December 12, 2016 Memo wherein he suggested the Board find the application complete for the purpose of scheduling a public hearing. Mr. Feldman also referred to the OHPC's Memo to the Board.

Mr. Feldman summarized the proposed project as:

"The applicant is proposing to remove an existing structure on the northwest portion of the property which currently houses 2 units above a garage on the ground floor. The applicant proposes to reconstruct 3 new units in the proposed structure with a new garage on the ground floor of this building. One of the 3 units will be for a Manager's living quarters which does not go against the total number of units allowed in the definition of a TA-3 Inn which will be outlined for you later in this memo. A TA-3 Inn is only allowed to have up to 9 units anything over that is considered a Motel/Hotel and is no longer allowed in the zoning ordinance. The applicant will be required to eliminate 2 units in the main building in order to comply with the expansion as proposed. The Board may want to have this conversation with the applicant during the deliberation period. To better understand the floor plan submitted in your packet, the 2 stories on the right side of the structure including the Garage area on the ground floor will be assigned to the manager's quarters. The left side of the building includes the 2 units; one being a ground floor unit and one being located on the second floor. These two units currently show Kitchen areas, those are not allowed in this setting and should not be allowed as part of this application. At best the applicant can provide a partial cooking facility as defined in the zoning ordinance."

"The two new units are currently proposed to be 672 square feet. The ordinance does not allow a unit such as this to be more than 650 square feet. The applicant will need to adjust the room size accordingly."

Currently the property has 11 units making it Nonconforming since an Inn by definition only allows up to 9 Units and the applicant cannot meet the dimensional requirements for a TA-4... If this were to stay a Motel/Hotel which is allowed in the GB2 zone and is recognized as a permitted use in the GB2 Zone the applicant would be required to meet all of the criteria as found in section 3.1 and 9.8 of the ordinance..."

“Based on the fact that the applicant could not meet all of the criteria and a Variance could not be granted for an outright expansion, it is my understanding that the applicant agreed to eliminate 2 units in the main building to bring the total number of rental units to 9 and making the use conforming.

Proposed Conditions for the planning board’s consideration:

Based on this information I would suggest the following conditions of approval for the planning board’s consideration:

- *The applicant revise the proposed floor plan to eliminate the Kitchens from the two new units and show Partial Cooking Facilities as defined in the zoning ordinance and included in this memo.*
- *In revising the floor plan for the two new units, the applicant must shrink those units to be no larger than 650 square feet in size.*
- *The applicant provide a floor plan of the existing building to show the elimination of the two units in that structure in order to bring the total units of the property down to 9*
- *The applicant agree to comply with the 3 recommended stipulations from the Historic Preservation Commission review.”*

Mr. Freedman asked for confirmation that the units need to be shrunk to 650 square feet or less.

Ms. Bevins asked if the living quarters have to be at least 650 square feet.

Mr. Feldman responded that the manager’s living quarters can be as large as the applicant wants.

Mr. Heyland added that the Zoning Ordinance definition of a “Dwelling Unit” is a facility that has sleeping, cooking, and bathing facilities, or is 650 square feet or larger. Thus, a hotel room 650 square feet or larger becomes a “dwelling unit” for residential density purposes. This project would require more land area to accommodate what they have designed. They will have to fall under 649 square feet for every individual guest room, excluding the manager’s quarters. The guest units must be 649 square feet in size, or less.

Mr. Hayes asked for the lot coverage.

Mr. Heyland responded that the proposed development will be 18.5% coverage, and the maximum in that zone is 30%. Well under the allowable 30% coverage. He estimated that the existing lot coverage is around 13%.

Mr. Wilkos asked Mr. Bacon to confirm existing, and proposed, lot coverage numbers before the next meeting.

Mr. Bacon asked for an explanation as to why the applicant will be required to remove two guest units. It was his (Mr. Bacon’s) understanding that the use was “grandfathered” and that they could keep the number of existing guest rooms.

Mr. Feldman responded that his interpretation of the Zoning Ordinance requires the Applicant to reduce the total number of guest units to nine. Anything over nine units categorizes the business as a hotel/motel and this applicant can't meet any of the standards for a hotel/motel. In order to bring the business back into compliance, as an inn, and obtain approval for the proposed project, the applicant must eliminate two units.

Mr. Hayes asked if there is currently a manager's quarters in the main structure.

Mr. Bacon responded that there is, and the plan is to delete that unit and put it into the new structure; there will not be any new units created.

Mr. Hayes asked what the new use will be for the space currently occupied by the manager's quarters in the main house.

Mr. Bacon responded that this is the first he has heard of deleting two units in the main building.

Mr. Pesterzik added that this information was what was on the handout the Board rejected. It is their plan to turn that space into an office, and Room #1 will be converted into a guest lounge/computer space. This will bring them down to nine rooms.

Mr. Wilkos asked Mr. Pesterzik if he was aware that he would be required to bring the room count down to nine.

Mr. Pesterzik responded that he was. He received Mr. Feldman's memo the other day and hasn't had a chance to update Mr. Bacon.

Ms. Freedman asked if the managers unit is not part of the two units which need to be removed, doesn't that mean they need to remove three rooms?

Mr. Pesterzik responded that they have a total of ten rooms. The number of eleven rooms has been in the public records however he only has ten rooms. They will eliminate Room #1 which will bring them down to nine rooms.

Mr. Wilkos asked how the eleven rooms was verified.

Mr. Heyland responded that the eleven room count was taken from tax records. He added that there was a permit issued ten years ago where two rooms on the third floor were combined, and this is probably when the room count went from eleven to ten. He also confirmed that the business has to have no more than nine rooms to be an inn, not including the manager's quarters. Seven guest rooms in the house and two guest rooms in the garage/carriage house, plus the manager's quarters in the carriage house.

Mr. Heyland stated that the applicant needs to clearly outline for the Board: where the rooms currently exist, where they will be removed, and how the proposal will include nine guest rooms.

Mr. Feldman referred back to his memo. He noted that the only relevant portions for this meeting are the Board's finding the application complete, approving the Code Enforcement Officer's waivers, and scheduling a public hearing and site visit.

Mr. Wilkos confirmed that the Board has received letters from the Ogunquit Sewer District and the KKW Water District both confirming service is adequate for the proposed project. The Board has also received memos from the Conservation Commission, The Ogunquit Police, Fire, and Public Works all none of which have concerns.

Mr. Wilkos noted that the Board also received a memo from the OHPC requesting three conditions of approval. He noted that this memo would be reviewed when the application has been found to be complete, and he asked the Applicant if he has seen the OHPC memo and their recommended conditions.

Mr. Pesterzik responded that he met with OHPC and he has seen their three conditions.

Mr. Heyland asked Mr. Bacon for the square footage of the existing vs. the proposed new structure. He also asked for the dimensions and height.

Mr. Bacon responded that the existing structure without the decks is 29'x23' about 650 square feet. The proposed structure is 28'x66' = 1800 square feet.

Mr. Heyland stated that the new building would be almost three times the size of the existing structure. He has no problems with that but he wanted it to be very clear.

Mr. Wilkos asked if the OHPC was aware that the new building would be almost three times the size of the existing structure.

Newell Perkins responded that they were aware.

Mr. Hayes asked if the Board can find the application complete when some of the information contained in it, is incorrect or needs to be amended.

Mr. Heyland responded that, regarding Design Review, as long as the submitted elevations won't change the Board can find the Design Review portion complete. He asked the Applicant to explain the changes to the interior of the building and whether or not the presented elevation drawings will be altered.

Mr. Charpentier responded that the interior walls will be moved and they will stay with the elevations that were submitted. He agreed that they can't stay with the plans as submitted if they have to change the kitchens.

Mr. Heyland clarified that Design Review only refers to the elevation drawings, anything done to the inside of the building is part of the Site Plan Review.

Mr. Hayes asked if the applicant can amend the plan if a window has to be changed.

Mr. Heyland responded that if the Board approves the elevation drawings which were submitted then that is what has to be built.

Mr. Charpentier confirmed that the elevations, as presented, are what will be built. The design as submitted, will not be changed.

Mr. Simpson Moved to find the Design Review Application complete for RENATA MOON LLC dba THE PUFFIN INN – 433 Main Street - Map 14 Block 16 – GBD2.
SIMPSON/BEVINS

Mr. Wilkos called for discussion. There being none he called for a vote on Mr. Simpson's motion:

**Mr. Simpson Moved to find the Design Review Application complete for RENATA MOON LLC dba THE PUFFIN INN – 433 Main Street - Map 14 Block 16 – GBD2.
SIMPSON/BEVINS 5:0 UNANIMOUS**

Mr. Wilkos asked if the Board wanted to schedule a Public Hearing for Design Review.

Ms. Freedman asked why they would hold two public hearings. Mr. Simpson agreed.

Mr. Wilkos responded that the Board would combine the Site Plan and Design Review Public Hearings.

The Board reviewed the Site Plan Review Submission Requirements as outlined in Article 6.6 of the Ogunquit Zoning Ordinance.

Mr. Wilkos asked if anything in the application packet would change with regard to the Site Plan.

Mr. Heyland noted that the lot coverage note on the plan needs to be updated.

Mr. Wilkos asked if the sketch, which the Board rejected, was part of Site Plan Submission Requirements.

Mr. Feldman responded that he did not believe it was.

Mr. Heyland agreed. He suggested the applicant should provide that information in time for the public hearing, it will be a piece of the Board's deliberations.

Mr. Simpson Moved to find the Site Plan Review Application complete for RENATA MOON LLC dba THE PUFFIN INN – 433 Main Street - Map 14 Block 16 – GBD2, and to approve those items which the Code Enforcement Officer deems not applicable.
SIMPSON/HAYES

Mr. Wilkos called for discussion. There being none he called for a vote on Mr. Simpson's motion:

Mr. Simpson Moved to find the Site Plan Review Application complete for RENATA MOON LLC dba THE PUFFIN INN – 433 Main Street - Map 14 Block 16 – GBD2, and to approve those items which the Code Enforcement Officer deems not applicable. SIMPSON/HAYES 5:0 UNANIMOUS

The Board scheduled a Site Visit to take place at 3:00 p.m. on January 9, 2017.

The Board scheduled a Public Hearing to take place at 6:00 p.m. on January 9, 2017.

The Applicant agreed to the date and times for both.

Mr. Feldman requested the applicant stake or paint something to indicate the footprint of the proposed building so the Board can see the change in size.

Mr. Charpentier asked, if it would be adequate for the Board to walk through the inn and see the interior space, or will he have to provide a new plan.

Mr. Feldman responded that the Board will need something on the record. It should suffice if the applicant can clearly explain, and provide a drawing, indicating the changes to room usage. This will provide the Code Enforcement Officer the information he needs for a future confirmation that the use changes were made as indicated.

Mr. Wilkos agreed. He instructed the Applicant to stake out the four corners of the proposed building so the Board can see the difference in size, he should also stake out the two new parking spaces, and the proposed shed. The Board should be able to clearly see the corners of all three changes: new building, shed, parking spaces.

H. CODE ENFORCEMENT OFFICER BUSINESS –

1. Helicopter Ordinance.

Mr. Heyland summarized that voters voted in an ordinance which he developed and which was slightly altered by the Select Board. There were two potential ordinances and the stricter of the two was the one the voters approved. After the Town Meeting it was proposed that the use of helicopters and their hovering and landing be totally prohibited within the Town of Ogunquit. At the last Select Board meeting Mr. Heyland spoke to the appropriateness of a moratorium for this purpose. It was determined that it would not be necessary because the Select Board indicated that they would support a total ban of helicopter landings. Mr. Heyland is drafting language to this effect which would allow for Life Flight and emergency landings and emergency training exercises. The question came up as to whether or not grandfathering would be possible for someone who opened a helicopter landing pad prior to the June 2017 Town Meeting. The Town Attorney has indicated that as long as public notification is given, which happened at the last Select Board Meeting and has also occurred at this meeting, grandfathering will not apply. Mr. Heyland asked for a discussion with the Board regarding two options: Total ban on helicopter

landings, or retaining the current ordinance restricting helicopter landings to the west side of the highway on lots two acres or larger in size, and the inclusion of language which would allow for emergency training exercises anywhere in town.

Mr. Simpson asked if the new proposal is again for two options.

Mr. Heyland agreed. He noted that there is language which never made it into the petition regarding emergency training exercises. There seems to be some movement to keep the existing language allowing private landings on the west side of the turnpike, and the addition of language allowing for training exercises. The alternative is a total ban on helicopter landings with the exception of Life Flight emergency landings and emergency training exercises.

Mr. Heyland wanted the public and the Board to know exactly what was being discussed.

I. OTHER BUSINESS –

1. Confirm Planning Board Meeting Schedule for January through June 2017.

January 9
January 23
February 13
February 27
March 13
March 27
April 10
April 24
May 8
May 22
~~June 12~~ Conflict – Hall setup for Town Meeting
June 26

It was agreed that the June 12th meeting could be moved to Tuesday June 13th, however the Board would wait until the summer to determine what to do about the June 12th meeting.

The Board agreed to the above noted meeting schedule.

2. Schedule Workshops:

- a) **Traffic Studies with traffic counts and failed intersections, outside lighting, outside sales.**

Mr. Feldman summarized that SMPDC has a Director of Transportation and he can work with the DOT to determine the failed status of Town intersections. He noted that there may be financial help to prepare the evaluation. Mr. Feldman stated that there are seventeen intersections on Route One.

The Board scheduled this workshop to take place on January 9, 2016 from 4:00 to 5:30 p.m. Mr. Feldman suggested they may only need to look at a few intersections to determine the level of

service. Either way he can put together a work project outline to submit to the DOT for DOT funding. This would include hiring a traffic engineer to do some of the initial legwork.

Mr. Hayes asked for a time frame.

Mr. Feldman responded that they can wait until summer for an actual traffic count or use predetermined traffic counts which would allow them to begin very quickly.

Mr. Hayes asked how many intersections in Ogunquit have already been designated as failed. He suggested that if all the intersections within one mile of an already failed intersection are eliminated it would significantly reduce the number of intersections they would have to evaluate.

Mr. Feldman disagreed. He noted that the whole three mile length of Route One in Ogunquit is zoned General Business/Commercial, so any project on any portion of that stretch could have a failed intersection within one mile of it. It will be important to gather as much information on every intersection point along Route One as possible. They could eliminate those intersections which the DOT confirms have been determined to be failed.

Ms. Bevins suggested: Berwick Road, Agamenticus Road, Shore Road, and Captain Thomas Road have all been identified as failed.

Mr. Feldman responded that these will all have to be confirmed and they can be eliminated if the DOT confirmed their failed status.

Mr. Heyland confirmed that the length of Route One from town line to town line is 2.34 miles.

Mr. Feldman suggested they study the four intersections noted above and use those as the four points of determination that they could use to identify anything within one mile. He agreed to look at them on a map.

Ms. Freedman asked if the determination is one mile north and south from a point.

Mr. Feldman responded that it is.

It was agreed that these four intersections would cover the entire length of Route One.

Mr. Heyland reminded everyone that just because a project is within one mile of a failed intersection it doesn't automatically mean it can't be approved. The project would have to increase the amount of traffic flow at that property. He referred to the Puffin Inn's application which will not increase traffic.

Mr. Feldman agreed to prepare a map indentifying those intersections with a mile radius around each intersection. This will show how much overlap there will be.

b) Single Family Home Rentals.

Kristen Arnold informed the Board that the week of February 20th would be good for her and Jackie Connerty.

Mr. Wilkos responded that in February the Planning Board meetings are on the 13th and the 27th.

Ms. Arnold responded that those dates don't really work for them; and she suggested March.

The Board scheduled the workshop for single family home rentals for February 13, 2017 at 4:00 p.m.

c) Procedures to enforce continued Code Violations.

Ms. Bevins brought up outside white strings of lights.

Ms. Freedman stated that she objected to strings of lights around windows.

Mr. Heyland agreed that the language may need to be tightened up. He referred to strings of lights under awnings which are used for outdoor lighting.

Ms. Freedman stated that they are currently not allowed and people are doing it; and what applies to one should apply to everyone. She didn't see any problem with them.

Mr. Heyland responded that there are many different configurations regarding what is allowed and what is not allowed.

It was suggested that the Ordinance language needs to be more specific.

Mr. Heyland informed the Board that when he sees a violation he notifies the owner and tells him/her that the violation needs to be removed. This verbal notice is followed up with a written notification. That is when it sometimes gets complicated, when multiple warnings and notifications are ignored.

Mr. Feldman suggested that the Code Enforcement Officer could be given the authority to issue citations similar to the police for traffic violations. There would be levels of violations, with fines, leading up to court action. When the person is taken to court the Town's attorney would request reimbursement for attorney / court costs from the defendant.

Mr. Simpson agreed. He noted that the majority of people in town abide by the rules, it's a handful of people who ignore the ordinances.

Mr. Hayes asked what the timeframe is between citations.

Mr. Heyland responded that the person is generally given thirty days to respond. For things like environmental hazards the timeframe can be expedited. Fines can be levied on a per day basis.

Mr. Feldman noted that in the State of Maine Code Enforcement is a police power, however the method of enforcement becomes a court action.

Mr. Wilkos asked what the process is today.

Mr. Heyland responded that they receive a Notice of Violation. If they do not respond or mitigate the violation within thirty days they receive a second notice. Depending on the nature of the violation most people comply, particularly when they see the language which informs them of the potential of a \$2500 per day retroactive fine.

The Board scheduled this workshop for March 13, 2017 at 4:00 p.m.

J. ADJOURNMENT -

**Mr. Simpson Moved to Adjourn at 7:55 p.m.
SIMPSON/HAYES 5:0 UNANIMOUS**

Respectfully Submitted

Maryann Stacy

Maryann Stacy

Recording Secretary

Approved on January 9, 2017