



Town of Ogunquit  
Planning Board  
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**OGUNQUIT PLANNING BOARD  
PUBLIC HEARING and REGULAR BUSINESS MEETING  
MINUTES  
DUNAWAY CENTER MAIN AUDITORIUM  
NOVEMBER 25, 2019**

**PUBLIC HEARING**

**DICAMILLO ASSOC. LLC/ GRASSHOPPER INN – 2 Grasshopper Lane – Map 8 Block 40 – GBD2 – Application to Amend Previously Approved Site Plan and Design Review (Originally Approved on 4-8-19).**

Mr. Wilkos asked if there was anyone who wished to speak for or against, or who had questions regarding this application.

There was no one and the Public Hearing was closed at 6:01 p.m.

**REGULAR BUSINESS MEETING**

**A. ROLL CALL –**

Members Present: Steve Wilkos (Chair)  
Mark MacLeod (Vice-Chair)  
Muriel Freedman  
Jackie Bevins  
Priscilla Botsford  
Brian Aromando (1<sup>st</sup> Alternate)  
Elaine Cooper (2<sup>nd</sup> Alternate)

Also Present: Scott Heyland, Code Enforcement Officer  
Lee Jay Feldman, SMPDC Town Planner

**B. PLEDGE OF ALLEGIANCE -**

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

**D. MINUTES – November 13, 2019.**

**Mr. MacLeod Moved to Accept the Minutes of the November 13, 2019 Meeting as Amended.**

**MACLEOD/BEVINS 5:0 UNANIMOUS**

**E. PUBLIC INPUT – For any matter not on this agenda.**

Mr. Wilkos asked if there was anyone who wished to be heard on any matter not on this meeting's agenda. There was no one.

Mr. Wilkos noted that there would only be one Planning Board Meeting in December; that meeting will take place on December 9<sup>th</sup>.

Mr. Wilkos read a statement regarding three members of the Planning Board who had been the victims of stalking: Mr. Wilkos, Current Vice Chair Mr. MacLeod, and former Vice Chair Mr. Hayes each received an anonymous mailing containing what they perceived to be threatening material. The Planning Board members met with Town Manager Finnigan who brought the Ogunquit Chief of Police into the matter. All three Planning Board members expressed concern for their safety as well as the safety of other Board members. The Ogunquit Police Department later contacted Mr. Wilkos and informed him that someone had admitted to sending the anonymous mailings.

Mr. Wilkos, Mr. MacLeod, Mr. Hayes, and the District Attorney agreed that the person who sent the letters would make a public apology, that there would be a fine, and that there would be no jail time. The Court Decision was finalized on November 6, 2019 and Mr. Wilkos received a copy of the Final Decision and the Defendant's letter of apology.

Mr. Wilkos stated that it is his opinion that no member of a Town Board or Committee should ever be subjected to what these Planning Board members were subjected to. Mr. Wilkos read, into the record, the Court Decision and the Letter of Apology which was signed by Defendant David Barton

**F. UNFINISHED BUSINESS –**

**1. FINDINGS OF FACT FOR:**

- a) **TOWN OF OGUNQUIT – 124 Beach Street – Map 7 Block 132 – SGD1. Approved on November 13, 2019.**

**Mr. MacLeod Moved to Accept the Findings of Fact for TOWN OF OGUNQUIT – 124 Beach Street – Map 7 Block 132 – SGD1. Approved on November 13, 2019.**

**MACLEOD/BEVINS 5:0 UNANIMOUS**

- b) **REDWOOD RESORTS LLC / COLONIAL VILLAGE RESORT – 548 Main Street – Map 9 Block 85-86 – SLC. Approved on November 13, 2019.**

**Mr. MacLeod Moved to Accept the Findings of Fact for REDWOOD RESORTS LLC / COLONIAL VILLAGE RESORT – 548 Main Street – Map 9 Block 85-86 – SLC.  
Approved on November 13, 2019.  
MACLEOD/BEVINS 5:0 UNANIMOUS**

Mr. Feldman noted that the Findings of Fact are actually approved at the time the Board approves the application and goes through the approval checklist. There is no reason for the Findings of Fact to come back before the Board a second time. The Chairman can review and sign the paperwork for the Findings of Fact on his own.

The Board agreed that applications and Findings of Fact receive their approval at the Planning Board Meeting when the Board deliberates and approves the Checklist of Site Plan Approval/Findings of Fact. Going forward the Chairman will go to the Land Use Office to review and sign the Findings of Fact paperwork.

It was noted that this was discussed some time ago with the Town Attorney who agreed that as long as the Board reviewed each standard of approval, the Findings of Fact paperwork did not need to come back before the Board after that meeting.

**2. DICAMILLO ASSOC. LLC/ GRASSHOPPER INN – 2 Grasshopper Lane – Map 8 Block 40 – GBD2 – Application to Amend Previously Approved Site Plan and Design Review (Approved on 4-8-19).**

- Request to:**
- 1) Extend the length of retaining wall along the south property line;**
  - 2) Replace Red Maple Trees with a wood guard rail located between post lights, and add additional shrubs;**
  - 3) Reconfigure parking layout and move ADA Parking Space to the building's entrance.**

Mr. Wilkos noted that the Board held a Site Visit at this property earlier in the day. A Public Hearing was held at the start of this meeting and no one spoke at that Hearing.

Chris Vance from Vance Architects addressed the Board as the Applicant's representative. Mr. Vance provided an overview of the proposed amendments to the originally approved plan.

Mr. MacLeod asked about the detail of the retaining wall.

Mr. Vance responded that the top block of the wall will be replaced with more decorative blocks. He noted that there is language addressing this on the plan indicating the "south side" of the site.

Ms. Botsford asked about the buffering requirements.

Mr. Heyland responded that Zoning Ordinance Article 8.3 states that when a commercial use abuts a residential use an area equal to ½ the side setback will be preserved as a vegetative buffer. In this case the required setback is 25' and ½ that setback is 12.5'. Mr. Heyland confirmed that a vegetative buffer may not contain pavement. After a review of the scaled drawings he determined that the proposed plans comply with the 12.5'.

Ms. Botsford asked if Article 8.10 regarding off-street parking and loading is applicable.

Mr. Heyland responded that this property is a commercial property; and off-street parking and loading is applicable.

Ms. Botsford asked about the section in Article 8.10.B.5 which states “not less than 6’ in height and 15’ in width along lot lines adjacent to residential properties”.

Mr. Heyland responded that this would be an example of conflicting sections. He noted that there is no proposed parking within the 15’ in this case.

Ms. Botsford added that Article 8.3 refers to buffer areas; and Article 8.10 refers to off-street parking; and a buffer is different than off-street parking.

Mr. Heyland reiterated that these are two different standards which are both applicable to this project.

Ms. Botsford asked if the Board needs to verify that this is being complied with.

Mr. Feldman suggested that the proposal more than provides for these standards. He noted that the Applicant is providing fencing and landscaping.

Mr. MacLeod referred to Article 8.5 which also states “except that driveways shall be kept open to provide visibility for entering and leaving.” Mr. MacLeod noted that the whole back side of the property is a driveway.

Mr. Feldman noted that at the Site Visit a question was asked about whether the “wall” was a “structure”. Mr. Feldman reviewed the definition of a structure and determined that a wall is not a structure.

Ms. Botsford argued against the suggestion that a driveway may extend into the fifteen foot limit. She did not want the Board to approve a “skinny buffer” and have homeowners/abutters come back in the spring and be surprised. She noted that the proposed plan indicates paving up to 4’ of the property line, an area which is required to have landscaping.

Mr. MacLeod responded that this isn’t applicable in this case because that particular Article talks about parking and loading. The area Ms. Botsford is referring to is a driveway area, not for parking and/or loading.

Ms. Botsford referred to Article 8.10.B.5 which states that “Off-street parking and loading spaces, where not enclosed within a building, shall be effectively screened from view by a continuous landscaped area not less than six feet in height and fifteen feet...”. She does not consider the proposed plan to be a “continuous landscaped area”.

Mr. MacLeod argued that the first sentence of Article 8.10.B.5 is “Off-street parking and loading spaces...”. He argued that the area Ms. Botsford is looking at is not parking or loading; and the Article she is referring too doesn’t apply here.

Ms. Botsford noted that the intent is to provide a landscaping buffer of 15’ along the residential abutting properties.

Ms. Cooper agreed with Ms. Botsford about the area along the south side of the property; however along the east side of the property they propose a 6' high fence and vegetative buffer which falls within what they are required to provide. She noted that the use of the word "except" allows for this.

Mr. Heyland asked Ms. Botsford to show him where, in Article 8.10.B.5, it says "no pavement".

Ms. Botsford responded that it doesn't say "no pavement" it says it shall be landscaped.

Mr. Heyland responded that the language which addresses "no paving" is found in Article 8.3 where it addresses buffered areas; and in this case that is a 12.5' requirement. He agreed that Article 8.10.B.5 talks about no parking or loading; however the no paving is talked about in the Article which, in this case, requires 12.5' of buffering.

Mr. Feldman referred to Article 8.10.B.5:

"Off-street parking and loading spaces, where not enclosed within a building, shall be effectively screened from view by a continuous landscaped area not less than six feet in height and fifteen feet in width along all lot lines adjacent to residential properties, except that driveways shall be kept open to provide visibility for entering and leaving." He noted that this portion of the Article is to preserve 12 feet back from the road so that drivers have a clear visibility line in both directions. He noted that it says that the landscaped area not be less than 6' in height.

Ms. Botsford responded that the definition says that the landscaped area shall contain a mix of trees, bushes, shrubs, ground cover, perennials, and grading to minimize the view of parked vehicles, yet not hide the buildings or other elements of the site. She noted that she read this from the Article for landscaping.

Mr. Feldman referred to the buffering section which says that due to varying site conditions the buffer may consist of fences, walls, trees, plantings, hedges, or a combination thereof. Short of an actual definition of "landscape" or "buffer" the Board must depend on the two articles noted above. He added that Article 8.3 says a fence may be used and Article 8.10.B.5 says except it shall be 6' in height.

Ms. Botsford suggested that "buffering" refers to that portion of the property closer to the road, where there is no driveway or loading zone; where it is primarily lawn and there is no parking lot. However Mr. Feldman is applying buffering to an area that is a parking lot, which gets another review which has a landscaping requirement. She argued that the Board needs to look at the intent of the Ordinance; and when someone is putting a parking lot next to someone's house they should have to provide a landscaped buffer. A landscaped buffer is defined as being a mixture of different sized plants.

Mr. Heyland responded that under Article 8.3 the pavement is required to be 12.5' from the property line. The pavement may not be less than 12.5' from a residential line; and this proposal meets that requirement. Ms. Botsford seems to argue that pavement isn't included in the definition of a landscape buffer. However, the Board has discussed proper screening and buffering which is a combination of several things; and with this application the Board found that this requirement has been met.

Ms. Botsford stated that the intent is to block the view of the vehicles.

Mr. Feldman noted that in this case the vehicles will be parked under the building.

Mr. Heyland agreed; and added that a 6' fence would make it impossible for someone standing at ground level to see a vehicle. He believes that the Board has found that the proposal meets the intention of the Ordinance.

Ms. Botsford noted that the plan includes more parking spaces than are required; and she added that she does not believe that the buffering requirements have been met, because of the setback distances.

Mr. Feldman noted that the Board has two choices:

- Approve the Applicant's request for amendments;
- or
- Deny the request and the Applicant may move forward with the previously approved plan.

Mr. Heyland asked Mr. Vance to explain the difference between what is currently approved and what the requested changes will look like with regard to the south side of the property.

Mr. Vance responded that the approved retaining wall, which runs along the south side of the property, will be extended approximately 90' to the west. The arborvitae trees will be moved forward; and no trees will be eliminated; and they will keep the 6' fence.

Mr. Heyland asked for confirmation that there will be no changes to the vegetation along the south property line.

Mr. Vance confirmed that they do not propose to eliminate any vegetation. He referred to Landscape Plan L-1 which is the Approved Landscape Plan.

Mr. MacLeod asked if the arborvitae trees would be moved further away from the lot line, and closer to the building.

Mr. Vance confirmed this and also confirmed that the trees would be fully mature trees at 9' to 10' in height.

Ms. Botsford reiterated that she does not believe that the plan meets the requirement of Article 8.10 specifically the distance the paved area needs to be away from the abutting residential property. She suggested it would not be too difficult to make the Applicant comply with the 15' rule of not paving.

Mr. Vance argued that the Ordinance refers to a parking lot or parking space; and he noted that the last parking space on the plan is about 20' from the property line. The area Ms. Botsford is referring to is a turn-around area and a place for snow storage in the winter; and is only an extension of the driveway.

Mr. Vance added that they are not proposing to change the parking count, they will only relocate one ADA Parking Space.

Mr. Wilkos asked each of the voting board members if they agree with Ms. Botsford that according to Article 8.10.B.5 there needs to be a 15' landscaped area on the south side of the property:

Mr. MacLeod = no  
Ms. Freedman = no  
Ms. Bevins = no  
Mr. Wilkos = no  
Ms. Botsford = yes

Mr. Wilkos summarized that, based upon a polling of the voting board members; the Board agrees that it is following the requirements of the Ordinance.

At this time the Board reviewed the Site Plan Review Application Approval Checklist as outlined in Section 6 of the Ogunquit Zoning Ordinance.

A. Does this application involve a pre-1931 structure?

The Board unanimously agreed that it does not involve a pre 1931 structure.

Has the application been reviewed by the OHPC?

Mr. Wilkos noted that it had not, because it does not involve a pre 1931 structure.

B. Has the Application been submitted for review by all Applicable Town Department Heads?

Mr. Heyland confirmed that it has.

At this time the Board reviewed the Site Plan Review Application Approval Checklist as outlined in Section 6.5 of the Ogunquit Zoning Ordinance.

1. Will allow the orderly and reasonable use of adjacent properties.

The Board agreed 4:1 (Ms. Botsford Dissenting) that it will, because the proposed changes will improve the buffering between this property and abutting residential properties.

2. Will not adversely affect the safety, the health and the welfare of the Town.

The Board unanimously agreed that it will not, because all proposed changes are internal to this site.

3. Will not create an undue increase of vehicular traffic congestion on public streets or highways.

The Board unanimously agreed that it will not, because the proposed changes will not generate any additional traffic.

4. Includes adequate and proper public or private facilities for the storage, treatment, handling, use of, removal, or discharge of sewage, refuse, hazardous material or other effluent (whether liquid, solid, gaseous or otherwise) that may be caused or created by or as a result of the use.

The Board unanimously agreed that it does, because the proposed changes only include a retaining wall and parking area and do not involve any sewage, refuse, hazardous material, or effluent.

5. Materials incidental thereto or produced thereby will not give off noxious gases, odors, smoke or soot.

The Board unanimously agreed that they will not, because the proposed changes only involve a landscaping retaining wall and parking area.

6. Will not cause disturbing emission of electrical discharges, dust, light, vibration, or noise.

The Board unanimously agreed that they will not, because the proposed changes only involve a landscaping retaining wall and parking area.

7. The operations in pursuance of the use will not cause undue interference with the orderly enjoyment by the public of parking or recreation facilities, existing, or proposed by the Town or by other competent governmental agencies.

The Board unanimously agreed that they will not, because the proposed changes only involve a landscaping retaining wall and parking area.

8. Contains adequate, off-street parking in compliance with this Ordinance.

The Board unanimously agreed that it does, because there will be no changes to the parking space count per the drawings of the original parking plan.

9. Does not create a hazard to life, limb or property because of fire, flood, erosion created by reason of use, or by the structures to be used therefore, or by the inaccessibility of the property or structures thereon for convenient entry and operation of fire and other emergency apparatus or by the undue concentration or assemblage of persons upon such plot.

The Board unanimously agreed that it will not, because the changes do not affect vehicle access and because the Ogunquit Fire Chief and Police Chief reviewed the plans and did not express any concerns.

10. Will be sensitive to adjacent historic properties in compliance with Article 11.

The Board unanimously agreed that this standard is not applicable because there are no adjacent historic properties.

11. Has a plot area which is sufficient, appropriate and adequate for the proposed use and the reasonably anticipated operation thereof.

The Board unanimously agreed it will, per submitted survey and site plans.

12. Will be adequately screened and buffered from contiguous properties.

The Board agreed (4:1 with Ms. Botsford Dissenting) that it will, because the proposed fence and vegetative buffering meets the standards for buffering between commercial and residential properties.

13. Will be constructed with adequate landscaping in compliance with this Ordinance, and provision for a storm water drainage system in compliance with the Ogunquit Subdivision Regulations.

The Board agreed (4:1 with Ms. Botsford Dissenting) that it will, because of the approved storm water plans; and because the changes to the retaining will improve drainage.

14. Will provide for adequate pedestrian circulation.

The Board unanimously agreed that it will, because there will be no impact on pedestrian circulation; and because the relocation of the handicapped parking space will bring added safety.

15. Anticipates and mitigates potential nuisance created by its location.

The Board agreed (4:1 with Ms. Botsford Dissenting) that it will, because the proposed buffering meets the standards required between commercial and residential properties.

16. Complies in a satisfactory manner with all applicable performance standards contained in this Ordinance.

The Board agreed (4:1 with Ms. Botsford Dissenting) that it does, because it satisfies all of the above-noted 15 standards.

**Mr. MacLeod Moved to Approve the Application for DICAMILLO ASSOC. LLC/ GRASSHOPPER INN – 2 Grasshopper Lane – Map 8 Block 40 – GBD2 – Application to Amend Previously Approved Site Plan and Design Review (Approved on 4-8-19).**

- Request to:**
- 1) Extend the length of retaining wall along the south property line;**
  - 2) Replace Red Maple Trees with a wood guard rail located between post lights, and add additional shrubs;**
  - 3) Reconfigure parking layout and move ADA Parking Space to the building's front entrance.**

**MACLEOD/BEVINS 4:1 (Ms. Botsford Dissenting)**

At this time the Board reviewed the Design Review Approval Checklist:

- A. Does this review involve a structure built prior to December 31, 1930?

The Board confirmed that it did not.

At this time the Board reviewed the Design Review Approval Checklist according to Article 11.7.C of the Ogunquit Zoning Ordinance:

1. Scale of Building – Is the scale of the building visually compatible with the site and neighborhood as to the relationship of the open spaces around it and the size of doors/windows/porches/balconies?

The Board unanimously agreed that this standard is not applicable because there are no proposed changes to the approved building.

2. Height – Is the height of the building visually compatible with the heights of the buildings in the neighborhood?

The Board unanimously agreed that this standard is not applicable because there are no proposed changes to the approved building.

3. Proportion of Front Façade – Is the relationship of the width to the height of the front façade visually compatible with that of its neighbors?

The Board unanimously agreed that this standard is not applicable because there are no proposed changes to the approved building.

4. Relationship of Solids to Voids in Front Façade – Is the pattern of solids and voids in the front façade visually compatible with that of its neighbors?

The Board unanimously agreed that this standard is not applicable because there are no proposed changes to the approved building.

5. Proportions of Openings Within the Facility – Is the relationship of the height of windows and doors to their width visually compatible with the architectural style of the building and with that of its neighbors?

The Board unanimously agreed that this standard is not applicable because there are no proposed changes to the approved building.

6. Roof Shapes – Is the shape and proportion of the roof visually compatible with the architectural style of the building and with those of neighboring buildings?

The Board unanimously agreed that this standard is not applicable because there are no proposed changes to the approved building.

7. Relationship of Façade Materials – Are the facades of a building, particularly the front facade, visually compatible with those of other buildings around it?

The Board unanimously agreed that this standard is not applicable because there are no proposed changes to the approved building.

8. Relationship of Spaces to Buildings on the Street – Has the rhythm of spaces to buildings been considered when determining visual compatibility, whether it is between buildings

or between a building and the street?

The Board unanimously agreed that this standard is not applicable because there are no proposed changes to the approved building.

9. Site Features – Is the size, placement, and materials of walls, fences, signs, driveways, and parking areas visually compatible with the building and neighboring buildings?

The Board agreed (4:1 Ms. Botsford Dissenting) that it is, because the change only involves an extension of a previously approved wall. There will be no change to the type of wall or fence

10. Architectural, Historical or Neighborhood Significance – Have the construction, reconstruction, maintenance, or moving of pre-1931 buildings been done in a manner which is visually compatible with the architectural, historical or neighborhood significance of buildings existing in 1930.

The Board unanimously agreed that this standard is not applicable because there are no proposed changes to the approved building.

- C. If the review requires more time to complete...

The Board determined that it did not.

- D. Does the Planning Board desire an irrevocable letter of credit or performance bond prior to the issuance of a Building Permit?

The Board determined that it did not.

**Mr. MacLeod Moved to Approve the Design Review Application for DICAMILLO ASSOC. LLC/ GRASSHOPPER INN – 2 Grasshopper Lane – Map 8 Block 40 – GBD2 – Application to Amend Previously Approved Site Plan and Design Review (Approved on 4-8-19).**

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- 1) Extend the length of retaining wall along the south property line;**
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**MACLEOD/BEVINS 4:1 (Ms. Botsford Dissenting)**

- G. NEW BUSINESS – None**

- H. CODE ENFORCEMENT OFFICER BUSINESS –**

Mr. Heyland reminded everyone that anyone owning property in the Shoreland Zone (250' from the high water line and/or 75' from a stream), should pay attention to the Shoreland Zoning Standards; and should contact the Land Use Office if there is any type of soil disturbance, vegetation removal, or structure work/replacement being done, or proposed in those areas.

**I. OTHER BUSINESS –**

**1. Discussion regarding application public hearings meeting agenda protocol.**

Mr. Wilkos reviewed correspondence from Marsha Northrop dated November 13, 2019 (copy of Ms. Northrop's e-mail attached for the record).

Mr. Wilkos noted that the Planning Board By-Laws require Public Hearings to be held at the start of meetings. He suggested that Public Hearings might become part of application's discussions which would allow members of the public to participate in application review while the Board is holding its discussions. He noted that deliberations will still be restricted to the voting board members.

The Board discussed removing Public Hearings from the start of meetings; and holding Public Hearings during the regular business meeting in the following manner:

Applicants present their proposal;  
At this time the Board may question the applicant.  
Public Hearing opened;  
Members of the public may provide input and ask questions.  
Public Hearing closed;  
Planning Board begins deliberations.

Mr. Feldman noted that Public Hearings may be re-opened, or left open, at any time during the process at the discretion of the Board.

Mr. Wilkos asked the Board members if they agree with the proposed change to the protocol of when Public Hearings will be held during meetings:

Ms. Cooper = yes  
Ms. Bevins = yes  
Ms. Freedman = yes, as long as the Public Hearing is held after the Applicant's presentation.  
Mr. MacLeod = yes, as long as the Public Hearing is closed during the Board's deliberations.  
Ms. Botsford = yes  
Mr. Aromando = yes  
Mr. Wilkos = yes.

Mr. Feldman noted that Public Hearings could be closed before the Board begins deliberations; and the Public Hearing may be left open if the Board decides to table an application to the next meeting date.

Public Hearings would be kept open while the Board talks things through and asks questions. When the Board has determined that it has gathered all the information it needs, and is ready to go into deliberations, the Public Hearing would be closed.

It was agreed that Public Hearings would only be re-opened for the introduction of new information; and not to re-discuss material the Board has already received and reviewed.

It was agreed that Town Staff would prepare an amendment to the Planning Board By-Laws for review at the next Planning Board Meeting.

**J. ADJOURNMENT –**

**Mr. MacLeod Moved to Adjourn at 7:35 p.m.  
MACLEOD/BEVINS 5:0 UNANIMOUS**

Respectfully Submitted

*Maryann Stacy*

Maryann Stacy

Town of Ogunquit

Planning Board Recording Secretary

Approved on December 9, 2019

*Notes:*

- *These minutes are not a transcript.*
- *Copies of all referenced documents will be maintained in the Application packet on file with the Land Use Office.*
- *All Planning Board meetings are video archived, and may be viewed for one year after the meeting date, on the Town of Ogunquit's website at [www.townofogunquit.org](http://www.townofogunquit.org).*