



Town of Ogunquit
Planning Board
Post Office Box 875
Ogunquit, Maine 03907-0875
Tel: 207-646-9326

**OGUNQUIT PLANNING BOARD
REGULAR BUSINESS MEETING
MINUTES
DUNAWAY CENTER MAIN AUDITORIUM
DECEMBER 9 2019**

REGULAR BUSINESS MEETING

A. ROLL CALL –

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

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

Mr. Wilkos noted that later in this meeting the Board would be discussing the role of alternates. He stated that until that time the Board's alternate members would continue with the responsibilities and privileges they have always had. The only change in the Board's protocol, with respect to alternate members, is that the alternates would no longer be included in "straw polls". They would continue to engage in all other discussions with the exception of checklist/deliberations.

B. PLEDGE OF ALLEGIANCE -

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

D. MINUTES – November 25, 2019.

Mr. MacLeod Moved to Accept the Minutes of the November 25, 2019 Meeting as Amended.

MACLEOD/BOTSFORD 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.

F. **UNFINISHED BUSINESS** –

DAVID GIARUSSO / ANGELINA'S – 655 Main Street – Map 13 Block 49 – GBD2 – Site Plan and Design Review to replace a 20'7.5"x27' three season canopy with a new 22'6"x 20'11 ¾" four season framed structure. Height of 15'9" will not change.

Jerry DeHart from Coastal General Construction addressed the Board as the Applicant's representative.

Mr. DeHart stated that per the Board's request he has submitted a boundary survey. He noted that the percentage of lot coverage, as noted on the survey, is 16.36%.

Mr. MacLeod specified that the notation on the survey says 16.36%.

Ms. Botsford noted that the 11"x17" Plan labeled SK1, which was included in their packets, is different than the 24"x36" SK1 Plan which was left on the table tonight. She also asked what the difference is between a Compiled Boundary Plan and a Site Plan.

Mr. Heyland responded that a Compiled Boundary Plan indicates that two lots have been merged; and it shows the limits of both lots as one. He confirmed that Plan BD1 is the Boundary Survey, stamped by the professional land surveyor, which the Board requested. Plan SK1 was prepared by the Site Engineer and it is based on BD1 Plan. He noted that both plans designate the total lot area as 27,108 feet.

Mr. Wilkos summarized that two lots have been combined and the current lot coverage is 16.37% well below the 30% allowed maximum.

Ms. Botsford expressed concern that the two SK1 plans are not the same; and she pointed out several differences in the notations on the plans. She also expressed frustration that the 24"x36" SK1 Plan was left on the Board's table tonight and she has not had time to review it.

She pointed out that the property line between the two merged lots is still included on the survey. She would have expected it would be gone.

Ms. Botsford also noted that all the setbacks, and the parking layout are not included on the updated plan.

Mr. DeHart responded that this is not uncommon when two deeds are combined.

Mr. Wilkos noted that the smaller SK1 plan is dated 11/25/19 and the larger SK1 plan is dated 12/6/19; and he asked Mr. DeHart what the differences are between the two SK1 Plans.

Mr. DeHart responded that updated plans usually have changes; this is not unusual. He added that two lots were combined for the updated plan; the 30' setback line still says 30' and the setback line is there. The details on the right side of the plan include things like: where the information was obtained, the updated lot coverage, seven reference plans, Assessor's information, owner of record, and deed information...

Mr. Heyland reiterated that it is his opinion that the submitted BD1 Plan dated 12/6/19 is a Standard Boundary Survey attested and certified by a Maine Professional Licensed Surveyor. This is the survey of the current configuration of the property. It shows a total lot area of 27,108 feet and includes all the lot area where the original two lots use to be. He is comfortable that this is the Standard Boundary Survey the Board asked for.

Ms. Botsford asked why there are no side and rear setbacks shown on the plan.

Mr. Heyland responded that those setbacks are not relevant to this application. The relevant setbacks are indicated on the survey.

Ms. Botsford expressed her concern that the Board be consistent in what it requires of applicants. She also again expressed her concern that the Board just received the 24"x36" SK1 Survey and has not had adequate time to review it. She again stated that all the setbacks are not included on the plan.

Mr. Feldman responded that, according to Maine law, setbacks are not required to be included on a survey. Setbacks are usually included as part of the Site Plan, not the Survey. He confirmed that the survey the Board has is a Standard Boundary Survey, stamped, certified, and signed by the surveyor. He reiterated that unless the Board instructed the Applicant to come back with setbacks on the survey, setbacks are not a requisite for a Standard Boundary Survey.

Mr. Wilkos asked Mr. Heyland if the proposed application meets setback requirements.

Mr. Heyland responded that it does. He pointed out that there is a 90' setback to the northern property line where the requirement is only 15'. He doesn't see any need to confirm that the application meets the side and rear setbacks. In the front, where the proposed structure is very close to the 30' setback, the building footprint will have to be pinned. He repeated that there is 80'+ to the side and rear setbacks and he doesn't need to have those setbacks confirmed, it's obvious that those setbacks are met.

Mr. Wilkos asked Mr. Heyland if he would be comfortable issuing a building permit based on the submitted survey and site plan.

Mr. Heyland responded that he would.

Ms. Botsford asked for confirmation that the proposed structure's footprint is 30' back from the front property line.

Mr. DeHart confirmed that it is.

Ms. Botsford again noted that the parking layout is not included on the plan. She asked if the Applicant's parking is all legal; and if there are any parking spaces which back onto Route One.

Mr. DeHart responded that the proposed project will not affect the parking. He also reminded everyone that Mr. Heyland stated at the last meeting that asking this applicant about parking would be akin to asking about a septic plan. It just isn't relevant to this application.

Mr. Wilkos noted that there is an approved parking plan on record from a previous application; and he asked that a notation be added to the updated plan referencing that approved parking plan.

Mr. Wilkos also asked Mr. DeHart to add the side and rear setbacks to the Final Plan.

Mr. DeHart agreed.

Ms. Botsford asked about the parking spaces which back out into Route One.

Mr. Heyland responded that the Ordinance says that no more than four parking spaces shall be arranged so that they back directly into a public way. He suggested the Board may not want to tell this applicant that he has to rearrange the parking layout; because it isn't related to this application.

Ms. Botsford noted that that the approved parking plan was for the lot to the north, not for the lot where this proposed project will take place.

Mr. MacLeod pointed out that Note #10 on the SK1 Plan dated 11-25-19 states that "Reference is made to "Parking Lot Maintenance Agreement"(including reciprocal easements), recorded at Y.C.R.D. 14537/333." Mr. MacLeod noted that this notation is not on the updated SK1 Plan. He suggested it could be added to the Final Plan.

Mr. Heyland added that when the two lots were originally created there was an easement which was abandoned when this new deed was drafted merging the two lots into one. He noted that the Board has a copy of the new deed. He also confirmed that the Applicant has not abandoned any previously approved parking layout.

Mr. Wilkos asked to have Notation #10 from the 11/25/19 SK1 Plan included on the Final Plan, he also asked to have the side and rear setbacks added to that Final Plan.

Mr. Wilkos reviewed the new Quit Claim Deed merging the two lots.

Ms. Botsford asked if the newly created single lot could be divided in the future.

Mr. Heyland responded that there is no way the Applicant can divide the lot in the future because he would not have enough lot area to create two legal lots which meet all the Ordinance requirements for that zone. The minimum lot size, in that zone, is 20,000 feet. This applicant has 27,108 for this new lot. He would need 40,000 feet to create two lots; and he does not have it. This new lot can never be divided.

Ms. Botsford again suggested that this is the time to improve the parking layout situation. Specifically the spaces which back out onto Route One. She suggested that this is not an ideal situation; and she wants the Board to look at it.

Mr. Wilkos noted that the original SK1 plan shows two parking spaces adjacent to Route One; and the updated plan only indicates paved area.

Mr. Heyland added that the approved parking plan was for the lot to the north; and he does not believe that the parking spaces Ms. Botsford is concerned about were part of that approval.

Ms. Freedman noted that one of the parking spaces in front of the building is a handicapped parking space.

Mr. Heyland confirmed that the first parking stall to the right of the restaurant entry door is a handicapped space.

Ms. Botsford suggested that the handicapped spot could be relocated around the corner.

Mr. Heyland responded that usually handicapped spaces are located as close to an entrance as possible.

Mr. DeHart responded that there are many situations up and down Route One where parking spaces back out onto Route One. If the Board is going to start removing those spots it is going to create a much larger problem. He also pointed out that the Route One sidewalk is on the other side of the street; and the crosswalk is to the north of the Applicant's lot.

Mr. Heyland referred to Zoning Ordinance Article 8.10.A.1.b which states that:

“Parking areas with more than four parking spaces shall be arranged so that it is not necessary for vehicles to back into the street.”

Mr. Heyland referred to Zoning Ordinance Article 8.10.B.2.c which states that:

“Access to parking stalls should not be from major interior travel lanes, and shall not be immediately accessible from any public way.”

Mr. Heyland added that the Applicant's parking spots have been in place for a long time.

Ms. Botsford noted that this parking layout is not an ideal situation and that if it were being put in place today it would not be allowed. She suggested that this is the Board's chance to improve the situation. She noted that the ADA spot could be left as is and the other front parking spots could be removed.

Mr. Wilkos polled the Board members asking how they feel about the parking layout:

Mr. Aromando = leave it alone.

Mr. MacLeod = leave it alone.

Ms. Freedman = leave it alone.

Ms. Bevins = leave it alone.

Ms. Cooper = leave it alone.

Mr. Wilkos confirmed that the Board has agreed that the parking will be left in its current layout.

Ms. Cooper asked if the Quit Claim Deed has been recorded at the Registry of Deeds.

Mr. DeHart responded that it was recorded with a special one day recording which required payment of a special fee; and he will give a copy of the recorded deed to the Land Use Office.

Mr. Heyland noted that the originally submitted plans indicate a new building size of 20'7 ½" x 22'6" and the Site Plan footprint box indicates 22 ½' x 20'11 ¾".

Mr. DeHart confirmed that the footprint will be pinned; and will match the measurements indicated on the Site Plan footprint box.

At this time the Board reviewed the Design Review Approval Checklist for compliance with Article 11.7.C of the Ogunquit Zoning Ordinance:

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

The Board agreed that the property Tax Card indicates a construction date of 1929. It was also noted that the Ogunquit Historic Preservation Commission (OHPC) reviewed this application on 9/25/19 and had no concerns.

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 it is, because there will be no changes to the window style; and the new building will be visually buffered by existing hedges from the road and its neighbors.

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

The Board unanimously agreed that it is, because there will be no change in the main building height, and the new addition will be lower.

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 it is, because there will be no visible change to the front façade and the new addition will be buffered from view from the road and its neighbors.

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 it is, because there will be no visible change to the existing structure and the new addition will be buffered.

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 it is, because there will be no visible change to the existing structure, and because the new addition will be buffered from visibility from the street and its neighbors.

Mr. DeHart confirmed that the existing arborvitae hedges will remain where they are and any trees which are damaged or killed will be replaced with new trees of like species and height.

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 it is, because the new roof will mirror the existing roof and will be lower in elevation.

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

The Board unanimously agreed that they are, because there will be no visible change to the existing structure and the new addition will be buffered.

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 it has, because the new addition will be set further back from the street than the existing structure; and it will be visually buffered.

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 unanimously agreed that it is, because there will be no changes to site features.

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 it has, and again referenced the OHPC's 9-25-19 review conclusions.

Does the review require more time to complete?

The Board agreed that it does not require more time to complete.

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

The Board agreed that it does not.

**Mr. MacLeod Moved to Approve the Design Review Application for DAVID GIARUSSO / ANGELINA'S – 655 Main Street – Map 13 Block 49 – GBD2 Design Review to replace a 20'7.5"x27' three season canopy with a new 22'6"x 20'11 3/4" four season framed structure. Height of 15'9" will not change.
MACLEOD/BEVINS 5:0 UNANIMOUS**

At this time the Board reviewed the Site Plan Review Application Approval Checklist as outlined in Section 6.7 of the Ogunquit Zoning Ordinance.

Does this application involve a pre-1931 structure?

The Board agreed that the property Tax Card indicates a construction date of 1929. It was also noted that the Ogunquit Historic Preservation Commission (OHPC) reviewed this application on 9/25/19 and had no concerns.

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

Mr. Heyland confirmed that it had.

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

Will allow the orderly and reasonable use of adjacent properties.

The Board unanimously agreed that it will, because there will be no change in the number of restaurant seats or parking configuration; and no anticipation of additional traffic.

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

The Board unanimously agreed that it will, because there will be no change in the number of restaurant seats or parking configuration; and no anticipation of additional traffic.

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

The Board unanimously agreed that it will not, because there will be no change in the number of restaurant seats or parking configuration; and no anticipation of additional traffic.

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 will, because there will be no changes to the property use or the number of restaurant seats.

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

The Board unanimously agreed that this standard is not applicable because there will be no change to the use of the property.

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

The Board unanimously agreed that it will not, because there will be no changes to the use of the property.

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 it will not, because there are no adjacent recreational facilities to this property.

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 layout or anything that impacts parking.

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 does not, because of the use of exit doors on the east side of the building which provides safe and easy emergency exiting.

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

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

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

The Board unanimously agreed that it does, because the merging of the two lots allows it to meet the requirements of Table 703.1 of the Ogunquit Zoning Ordinance.

Will be adequately screened and buffered from contiguous properties.

The Board unanimously agreed that it will, because the Applicant will retain existing vegetative buffering.

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 unanimously agreed that it will, because there will be no change to existing Landscaping; and because there will be a reduction to the size of the building.

Will provide for adequate pedestrian circulation.

The Board unanimously agreed that it will, because there is no change to existing pedestrian circulation.

Anticipates and mitigates potential nuisance created by its location.

The Board unanimously agreed that it will, because there will be no change to existing buffering conditions.

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

The Board unanimously agreed that it does, because it meets all of the above-noted fifteen standards.

**Mr. MacLeod Moved to Approve the Site Plan Review Application for DAVID GIARUSSO / ANGELINA'S – 655 Main Street – Map 13 Block 49 – GBD2 Site Plan Review to replace a 20'7.5"x27' three season canopy with a new 22'6"x 20'11 ¾" four season framed structure. Height of 15'9" will not change.
MACLEOD/BEVINS 5:0 UNANIMOUS**

G. NEW BUSINESS –

- 1. YORK RIVER LLC - 15, 25, & 29 Autumn River Lane – Map 20 Blocks 15-C2, 15-C3, and 16 – RR2 - Subdivision Preliminary Plan Application. Request for a lot line adjustment with abutting lot to the north; and the creation of three new lots from the remaining acreage.**

Isaiah Plante from Kimball Survey and Design addressed the Board as the Applicant's representative.

Mr. Plante informed the Board that he has included a "no cut" buffer on both the south and north sides of the property.

Mr. Feldman reviewed his 11/22/19 Memo to the Board.

Ms. Botsford asked why the new homes are required to have sprinkler systems.

Mr. Heyland responded that this requirement comes from the NFPA Code. This is because of the distance from a source of water being greater than one mile. He noted that this condition was also on the original subdivision approvals.

Mr. Feldman added that the NFPA looks for three fire protection water sources when the property isn't on public water:

- Water Pond
- Dry hydrant
- Individual house sprinkler system.

The Board reviewed the seven waiver requests with the following results:

Waiver of Article 6.2.8 Copy of proposed deed restrictions.

Reason: No deed restrictions are proposed.

The Board unanimously agreed to grant this waiver.

Waiver of Article 6.2.9.1 Letter from Sewer District indicating sufficient capacity.

Reason: No sewer connection is proposed.

The Board unanimously agreed to grant this waiver.

Waiver of Article 6.2.10 Statement from servicing water district indicating adequate water Supply.

Reason: No public water is proposed.

The Board unanimously agreed to grant this waiver.

Waiver of Article 6.2.11.3 High Intensity Soil Survey.

Reason: A medium intensity soil survey and test pits have been submitted.

Mr. MacLeod asked if the Board has the authority to waive this submission requirement. He noted that the Subdivision Regulations state that this information “shall” be included on the plans.

Mr. Feldman responded that the Board does not have the authority to waive a dimensional standard; however it does have the authority to waive any submission requirement. The Board unanimously agreed to grant this waiver.

Mr. Plante informed the Board that they have provided the same information with a medium intensity survey. He noted that they have test pits on each lot which more than exceed the requirements of the septic systems.

Waiver of Article 6.2.11.4 Location of trees greater than 24 inches.

Reason: The applicant has preserved approximately half of the property in a no cut buffer. Trees outside of the no cut buffer can be cleared for construction purposes.

The Board unanimously agreed to grant this waiver.

Waiver of Article 6.2.11.13 Land proposed to be dedicated to public use and the conditions of such dedication.

Reason: No open space is proposed. There are two no cut buffers proposed totaling 2.3 acres in lieu of open space.

The Board unanimously agreed to grant this waiver.

Waiver of Article 6.2.12 Hydrogeologic assessment.

Reason: A medium intensity soil survey and test pits have been submitted along with a letter of adequate water supply by a well driller. Septic systems meet the 100 foot well and septic separation requirement.

The Board unanimously agreed to grant this waiver.

Ms. Freedman Moved to Find the YORK RIVER LLC Preliminary Plan

Submissions Checklist Complete.
FREEDMAN BEVINS 5:0 UNANIMOUS

Mr. Wilkos noted that a Public Hearing would take place on January 13, 2019 at 6:00 p.m.

Mr. Wilkos also noted that the Board held a Site Visit on September 23, 2019.

Mr. Plante asked if the Board would review the Final Approval on the same night as the Public hearing.

The Board agreed that it would as long as the Applicant submits everything that is required.

H. CODE ENFORCEMENT OFFICER BUSINESS –

Mr. Heyland reminded everyone that there are regulations for any work done in the Shoreland Zones.

Mr. Heyland suggested the Board hold a workshop regarding a review and updating of the Subdivision Regulations.

Mr. Feldman and Mr. Heyland agreed to draft proposed language changes to the Subdivision Regulations for the Planning Board to review. The Board will schedule a workshop at that time.

I. OTHER BUSINESS –

1. Implementation of Planning Board Alternate Board Members - Role and Participation in Board Discussions.

Mr. Wilkos noted that the Board received input from a member of the public referencing the MMA Manual. The Board also asked for input from the Town Attorney.

The Board agreed that it will continue in the manner it has in the past. Alternates will participate in discussions until the Board goes into deliberations which begin with the checklists. Deliberations/checklist review will only be discussed by regular voting members.

2. Review, and act on, proposed amendments to Planning Board By-Law Section 3.1.3.

The Board reviewed the proposed changes to the By-Laws regarding when, on the agenda, the Board will schedule application public hearings.

Mr. MacLeod Moved to Adopt the proposed changes.
MACLEOD/BEVINS 5:0 UNANIMOUS

J. ADJOURNMENT –

Mr. MacLeod Moved to Adjourn at 7:45 p.m.
MACLEOD/BEVINS 5:0 UNANIMOUS

Respectfully Submitted

Maryann Stacy

Maryann Stacy

Town of Ogunquit

Planning Board Recording Secretary

Approved on January 13, 2020

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.*