



Zoning Board of Appeals
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**OGUNQUIT ZONING BOARD OF APPEALS
MEETING MINUTES
JUNE 11, 2020
VIA ZOOM**

CALL TO ORDER - 4:00 p.m.

Mr. Griswold called the roll and each Board member responded verbally.

Members Present:	Jay Smith, Chair	(Term Expires 2020)
	Jerry DeHart, Vice Chair	(Term Expires 2020)
	Mike Horn	(Term Expires 2021)
	Doug Mayer	(Term Expires 2022)
	Peter Griswold, Secretary	(Term Expires 2022)
	Carole Aaron (1 st Alternate)	(Term Expires 2020)
	Glen Deletetsky (2 nd Alternate)	(Term Expires 2020)

Also Present: Scott Heyland, Ogunquit Code Enforcement Officer.

Mr. Smith noted that a quorum was present; and the Board would follow the agenda as posted.

Mr. Smith noted that for each motion Board Members would vote yea or nea verbally.

ACCEPTANCE OF MINUTES – March 12, 2020

**Mr. Horn Moved to Accept the Minutes of the March 12, 2020 Meeting as Submitted.
HORN/MAYER 5:0 UNANIMOUS**

OLD BUSINESS – None

NEW BUSINESS

- EDWARD STROB – 42 Belm Lane – Map 8 Block 18-1 – R/GB2. Variance Appeal. Request for change of property zone designation from General Business District 2 (GBD2) to Residential (R).**

Mr. Smith noted that the public portion of the meeting would not open until the Board responded to two questions:

Mr. Smith asked if there was anyone on the Board who had a conflict of interest sufficient to disqualify him/her from hearing and deciding this case.

There was no one.

Mr. Smith asked if the Board had standing/jurisdiction to hear this case. Are there provisions in the Ogunquit Zoning Ordinance (OZO) which allow the Zoning Board of Appeals to hear this particular case?

Mr. Horn referenced Article 1.3.G of the OZO which reads:

“The Code Enforcement Officer shall be the municipal official responsible for making determinations regarding the location of District boundaries and interpreting the Official Zoning Map. Decisions of the Code Enforcement Officer regarding the location of district boundaries may be appealed to the Board of Appeals, pursuant to Article 5.2.A, Administrative Appeals. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.”

Mr. Horn stated that based upon this article he does not believe the Board has standing to hear this case. He added that the Board only has jurisdiction to grant a variance from dimensional standards. It does not have the jurisdiction to change a zone.

Mr. DeHart referenced Article 1.3.G and asked if, in this case, uncertainty exists as to the exact location of district boundary lines; and he noted that if there is uncertainty the Board of Appeals would have final authority as to the location. He asked if there is an uncertainty of the boundary location in this case.

Mr. Griswold referred to Article 1.4.D which states in part: “...The space and bulk regulations of the district shall apply to the land within those districts and are not subject to the 50-foot provision.” He suggested that the issue in this case is the setback which falls under space and bulk regulations and as such the Board may have jurisdiction to hear this case.

Mr. Smith responded that this section deals with an informational article which covers what a property owner can and cannot do; but it doesn't refer to a change in the zoning boundary line.

Mr. Smith expressed his belief that there is no uncertainty or ambiguity as to the location of the zoning boundary line.

Mr. Smith asked the Board members if, after a review of the material, they believe the Board has jurisdiction to hear this case.

Mr. Mayer responded that the Applicant's request is to change the zone designation. His application form says nothing about ambiguity or uncertainty; which Mr. Mayer does not believe the Board has the authority to do as Mr. Strob requests.

Mr. Deletetsky agreed and stated that the Board doesn't have the authority to change a zoning boundary line. He also noted that this lot is divided by two zones. If the Board were to change the lot line location of this property it would create another property with bisected lot lines to the east of this one. He suggested this would be similar to spot zoning and would create cut out points of the boundary line running adjacent to Route One.

Mr. Horn referenced Article 5.2.B.a of the OZO; and reiterated that the Board may only grant a variance for dimensional standards.

Mr. Smith agreed and added that the Ordinance does not allow the Board to grant a variance to realign the zoning boundary line; GBD2 setback from Route One.

Mr. Mayer noted that there are a number of other lots in that area where the GBD2/R boundary line bisects a property.

Mr. Smith agreed and noted that there are over 60 lots which fall into a split because of the 250' setback from the center line of Route One.

Mr. Smith added that Article 1.9 covers how a property owner could go about attempting to change a zoning boundary line. He noted that the Zoning Map is overseen by the Planning Board and is voted on and set by the Town Voters. The Board cannot override a Town established boundary line unless there is ambiguity as to its location; and there is no ambiguity in this case. There is no meandering of the location of the GBD2 boundary line; it's a firm fixed line which is set back with exact dimensions from the center line of U.S. Route One; and has been well established for decades.

Mr. Smith argued that there is no uncertainty as to its location with regard to this property. He confirmed that it runs unambiguously parallel to Route One; and the GBD2 boundary line bisects at least 60 other lots along Route One.

Ms. Aaron noted that the Applicant submitted a copy of his deed which seems to show that this property originally had a 20' setback.

Mr. Smith responded that the deed may have been accurate when it was drawn up in 1990; however there have been changes to the OZO setback rules over time. This applicant is asking for a change of the current GBD2 boundary line, which Mr. Smith believes the Board does not have the jurisdiction to do.

Mr. Smith added that it appears as of the Applicant purchased the property in 1990 and the GBD2 came into existing c. 1991; this property owner has lived under this situation for over 20 years.

Mr. DeHart Moved to not hear this case; and to find that the Zoning Board of Appeals does not have jurisdiction to hear this case because there is no uncertainty as to the location of the zoning boundary line. This motion is based upon, but not limited to, Ogunquit Zoning Ordinance Articles: 5.2.B.1.a and 1.3.G.

The Board members voted verbally.

DEHART/GRISWOLD 5:0 UNANIMOUSLY PASSED

Mr. Smith noted for the record that the public session was not opened because the Board has no jurisdiction to hear a case requesting a change in zoning boundary lines.

CODE ENFORCEMENT OFFICER BUSINESS – None

OTHER BUSINESS – None

ADJOURNMENT –

Mr. Horn Moved to Adjourn at 4:33 p.m.

HORN/GRISWOLD 5:0 UNANIMOUS

Respectfully Submitted

Maryann Stacy

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Recording Secretary

Approved on July 9, 2020