

1. No Agenda

There is no agenda available for this meeting. Please review the minutes.

2. Meeting Materials

Documents:

[PB WS MINUTES 02.14.2022 \(OUTDOOR SALES\) \(PDF\).PDF](#)

[PB WS MINUTES 02.14.2022 \(TINY HOMES\) \(PDF\).PDF](#)



Town of Ogunquit
Planning Board
Post Office Box 875
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**OGUNQUIT PLANNING BOARD
MINUTES
FEBRUARY 14, 2022**

**POTENTIAL AMENDMENTS TO THE
OGUNQUIT ZONING ORDINANCE REGARDING
OUTDOOR SALES**

Members Present: Steve Wilkos (Chair)
Mark MacLeod (Vice-Chair)
Jackie Bevins
Elaine Cooper
Steven Meller
Mark Dufton (1st Alternate)

Also Present: Tyler McOsker, Code Enforcement Officer
Lee Jay Feldman, SMPDC Town Planner

Mr. Wilkos opened the workshop at 4:00 p.m.

Alice Pearce, Executive Director of the Ogunquit Chamber of Commerce expressed the Chamber Memberships' belief, that the Covid Emergency Measures have changed the way residents and tourists want to travel and shop. The ability to eat and shop outdoors will enable both guests and residents to enjoy Ogunquit in a safe manner. The past two summers, under Covid, have allowed restaurants and retailers to operate outdoors in a manner that preserves the look, feel, and culture of Ogunquit and demonstrated the need for flexibility to conduct outdoor business. The Ogunquit Chamber supports an amendment to the Ordinance which allows outdoor sales.

Tracy Smith, Crickets Corner Beach and Toy Store, stated that the ability to display her shop's items outside is the only thing that saved her business during the pandemic. She suggested that people are still uncomfortable shopping indoors; and she added that the increase in costs and the difficulty in finding employees require her to be able to display her shop's items outdoors.

Jeff Ashworth from C&S Toys in Perkins Cove agreed with Ms. Smith's comments. He stated that his shop is unusually small and he knows that many of his potential customers will not feel

safe coming inside. He stressed the increasing cost of doing business, the continuation of Covid and the need for outdoor sales.

John Clancy and John Ranco from the Pottery Shop in Perkins Cove echoed Ms. Smith and Mr. Ashworth's comments. Mr. Clancy noted that his shop sells landscaping plants and artwork and the ability to display these items outdoors is important. Mr. Clancy noted that his building has a small courtyard which they have opened up to Plein Air artists and other shop keepers. He stressed their commitment to the highest standards of displaying their items.

Mr. Feldman and the Board reviewed sample ordinance language from Bar Harbor, Wiscasset, and Bangor Maine. These three communities have established permitting processes for outdoor sales and display of goods. Mr. Feldman offered to draft language for a possible ordinance amendment if the Planning Board requests it. He suggested requiring a minimum of 48 inch clearance between tables and chairs and displayed items and fixed objects on the sidewalk and the curb line to ensure handicap accessibility and the ability of the public to free flow along public sidewalks.

Mr. Feldman suggested a few possible restrictions and requirements:

There may be a need for Select Board review for the use of public land such as sidewalks etc. This will address liability issues for the use of public land.

Outdoor displays and tables and chairs may be required to be brought inside nightly at the close of business.

Display or seating may only be in front of the business façade where items are being sold.

Required parking spaces may not be used for display of goods and must be kept available for parking.

In a multi-tenant building shops may be required to have written permission from the landlord or building owner.

No increase in signage; and if alcohol is served businesses must comply with State Liquor Laws.

Mr. Feldman suggested there may be additional requirements and restrictions.

Mr. Wilkos responded that if this is to move forward the Board will develop specific rules and regulations which businesses would need to adhere to.

Ms. Bevins stated that she is absolutely against allowing outdoor sales. She suggested the Town looked terrible the last two years when outdoor sales were allowed under the Covid Emergency Measures. She reminded everyone that when businesses opened they knew what they could and could not have and she suggested it is time to go back to normal pre-Covid conditions.

Ms. Cooper asked Ms. Pearce how many businesses there are in Ogunquit.

Ms. Pearce responded that there are about 50 restaurants and 50 retail businesses.

Ms. Cooper asked how many of those businesses requested permits for outdoor sales during the Covid Emergency. She agreed with Ms. Bevins and pointed out that there weren't any major procedures in place, other than taking out an application. Businesses were tasked with following rules such as not using space which wasn't theirs and taking products in at night. She noted that there were huge differences in the types of tents which were used, tables and types of products displayed. There was no enforcement when products were not brought in at night, business owners who expanded into space which was not theirs, required parking spaces being used to display goods and for outdoor seating. Ms. Cooper totally understood the need for the relaxation of outdoor sales regulations during the past two years but moving forward she would not like to see outdoor sales except during special events. She expressed her belief that it will take serious discussions between the businesses and the residents to come to an agreement as to what the community should look like and how to move forward with outdoor sales. She noted that even during the Covid situation the sales for last year were some of the highest businesses have ever had; and she pointed out that there were a lot of businesses who didn't have the space for outdoor sales and they survived the past two years. There haven't been that many businesses in Ogunquit which closed and she would like to revert back to not allowing outdoor sales.

Ms. Pearce agreed that there was very little control over outside sales during the last two years and she agreed that enacting specific guidelines, rules, and regulations will be important and the businesses, residents, and the Town will need to work closely together.

Mr. Dufton stated that he and his wife own two businesses in Ogunquit, and during Covid they took a small advantage of the outdoor sales relaxation. However he agreed with Ms. Cooper and Ms. Bevins that things did not look very good. He agreed that some business owners did a better job than others at displaying goods outdoors. He agreed that if outdoor sales are allowed they should be severely restricted and he suggested that outdoor dining should be segregated from outdoor sales.

Dr. Meller agreed with the other Board members, however he does not believe we are out of the woods with regard to Covid. Dr. Meller also expressed his belief that you can't legislate taste and it may be difficult to enforce outdoor sales regulations which steer outdoor sales to a very specific way of doing business. He would extend the "Covid Emergency" through the upcoming season, however going forward after that he agrees with the other Board Members.

Mr. Wilkos invited members of the public to be heard.

Barbara Treen read an e-mail which she sent to the Planning Board (*a copy of the e-mail will be maintained in the Planning Board Outdoor Sales Workshop file*).

Peter Kahn responded to Ms. Cooper's question, there were between 15 and 20 businesses which received exceptions during Covid. He expressed his belief that outdoor sales need to continue to be prohibited. He noted that this past summer pedestrians were forced to walk in the street because the sidewalks were cluttered with displays of goods. He asked for input from the Bike

Pedestrian Committee.

Kirsten Ross asked if the Town Manager has the authority to extend the Covid relaxation of restrictions into the upcoming summer. She doesn't see the need to hurry with implementation of amendments to the ordinance with regard to outdoor sales. She asked for more workshops and public hearings regarding this issue before any decision is made and presented to the voters.

Ms. Ross asked if the Code Officer is empowered to enforce any new ordinances. She noted that the question is larger than just outside dining and displays of goods, it's food trucks and vending machines; and any relaxation of outdoor regulations opens the floodgates.

The Board agreed that it may not be possible for this issue to be ready in time for the June 2022 Town Meeting. It would need to be further workshopped, language drafted, and a Public Hearing held before it is sent to the Select Board who may also want to schedule a Public Hearing.

The Board agreed that a letter should be sent to the Select Board requesting additional instructions from them as to what they are looking for, from the Planning Board, with regard to outdoor sales.

Mr. Wilkos thanked everyone for their input and the Workshop was adjourned at 5:00 p.m.

Respectfully Submitted

Maryann Stacy

Maryann Stacy
Town of Ogunquit
Planning Board
Recording Secretary

Accepted on February 28, 2022

Notes:

- *These minutes are a summary of what was discussed and are not a transcript.*
- *Copies of all referenced documents will be maintained in the Application packet on file with the Land Use Office.*
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**OGUNQUIT PLANNING BOARD
MINUTES
FEBRUARY 14, 2022**

**2ND WORKSHOP TO DISCUSS NEW STATE REGULATIONS
AND LOCAL ORDINANCES REGARDING TINY HOMES**

Members Present: Steve Wilkos (Chair)
Mark MacLeod (Vice-Chair)
Elaine Cooper
Steven Meller
Mark Dufton (1st Alternate)

Members Excused: Jackie Bevins

Also Present: Tyler McOsker, Code Enforcement Officer
Lee Jay Feldman, SMPDC Town Planner

Mr. Wilkos opened the workshop at 5:00 p.m.

Mr. Wilkos asked the Board Members how they would like to proceed. He reviewed the definition of Tiny Homes:

- A structure no more than 400 square feet;
- May be placed as an accessory dwelling unit on a resident's property;
- Could possibly be used as a rental unit;
- May also be placed on any single family home lot as an individual primary home.

Mr. MacLeod noted that any changes to the Zoning Ordinance will require production of draft language, holding of Public Hearings, and submission to the Select Board which may also hold a Public Hearing. It is unlikely that this matter will make it onto the June Town Meeting Warrant. He suggested reviewing this issue thoroughly and drafting language for the November Town Meeting and not hurrying this through the process.

He would like to focus on how Ogunquit will manage this question of tiny homes and their use.

Ms. Cooper asked about proposed new legislation that Maine is considering which could effect Home Rule. She noted that the Maine Municipal Association spoke out against taking Home Rule away from communities. There is discussion of allowing as many as four Tiny Homes on a single family lot, eliminating single family zone restrictions, and prohibiting municipal growth caps. Ogunquit is also currently addressing residents looking for Zoning changes, the start up of a new Comprehensive Plan Committee, and how Ogunquit looks at zones in the future. Ms. Cooper suggested that all of these things will effect how Ogunquit handles the question of Tiny Homes and the Board needs to look at all these aspects in a comprehensive manner.

Ms. Cooper also suggested that Ogunquit may prohibit Tiny Homes in the same way it prohibited Marijuana Sales. The language just has to be added to the Ordinance.

Mr. Feldman agreed that there are several pieces of legislation currently moving through State review. Much of it is directed toward affordable housing. There is also a push to eliminate single family homes zones. He added that the legislation says that communities “Shall” allow a Tiny Home on single family lots. Mr. Feldman suggested the Town Attorney provide input as to whether or not the Town can enact an ordinance which prohibits them.

Dr. Meller agreed that there is uncertainty regarding Tiny Homes. He suggested development of a list of requirements and restrictions which may be applied to any applicant for a Tiny Home:

- They must be on a foundation;
- They must be hooked up to sewer or septic;
- No change to setback requirements;
- One family per lot, if a tiny home is installed as an accessory unit it must have a familial link to the primary dwelling on the same parcel;
- Limiting them to specific zones;
- Limiting cluster development of Tiny Homes;
- Prohibiting their use as Transient Accommodations/Short Term Air B&B rentals;
- Requirement of Design Review.

Dr. Meller also pointed out that Single Family Dwellings must be a minimum of 650 Square Feet and a Tiny Home must be less than 400 Square Feet. This leaves a 250 Square Foot gap. He asked who would enforce this gray area. What if a Tiny Home is built at 450 Square Feet.

Mr. Dufton suggested it will be difficult to restrict Tiny Homes given the language of the new legislation.

Mr. Feldman noted that the only community which has imposed Tiny Home Regulations is South Portland. Ogunquit may be one of the first communities to look at enacting local ordinances to regulate Tiny Home development.

Mr. MacLeod pointed out that the primary intent behind Tiny Homes is to support affordable housing. If Tiny Homes are used as Transient Accommodations for rental housing it doesn't do anything to help the need for affordable housing in Maine. It is important to make it clear that Tiny Homes are intended to be “homes” not short term rentals. He suggested a minimum rental

time of three to six months. This would allow for seasonal staff housing and affordable rental housing.

Ms. Cooper agreed with Mr. MacLeod and Dr. Meller. She added that the Board needs to look at water sources, heating requirements, and whether they should be required to be solar or electrical line connected.

Mr. MacLeod also suggested they look at the question of whether or not lots may be subdivided after a Tiny Home has been built, and if they may be condominiums. He asked about the possibility of several Tiny Homes on a lot which are all individually owned by different people.

Mr. Wilkos asked if there was anyone in the public who wished to be heard.

Barbara Ferraro agreed that they should be prohibited from Transient Accommodation use, and she agreed that they should be used for affordable housing without “tapping into a transient community”.

Ms. Cooper asked how they will be taxed. Can they stay on wheels or will they need to be placed on a permanent foundation?

Mr. McOsker suggested the Board also look at waste. He noted that many Tiny Homes use composting toilets. He noted the Town’s concern about contamination of the watershed and he asked if Tiny Homes should be required to be hooked up to public sewer or a septic system.

The Planning Board members agreed that Mr. Feldman should draft language based upon this discussion.

Respectfully Submitted

Maryann Stacy

Maryann Stacy
Town of Ogunquit
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Accepted February 28, 2022

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