



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

**OGUNQUIT PLANNING BOARD
PUBLIC HEARINGS and REGULAR BUSINESS MEETING
MINUTES
MARCH 22, 2021
MEETING HELD ONLINE VIA ZOOM**

PUBLIC HEARING – 6:00 p.m.

**1. Proposed Amendment to the Ogunquit Zoning Ordinance regarding Lighting:
Article 6.7, Article 8.7, Article 8.12, Article 11.3, Article 11.6.A.4, and Article 11.7**

Mr. Wilkos reviewed the proposed amendments to the Ogunquit Zoning Ordinance regarding outdoor lighting.

Fred Lynk (Fieldstone Lane) suggested that the inclusion of commercial retail businesses in the proposed ordinance language will permanently change the look of Ogunquit at night and might be a mistake for the town. He has attended all of the workshops and while he agrees with the need for outdoor lighting for Type 2 Restaurants for safety reasons he doesn't see any need for additional outdoor lighting for commercial retail stores. He noted that it has been stated several times that the store owners use the lighting for ambiance and decorative purposes only.

Mr. Wilkos asked if there was anyone else who wished to be heard. There was no one and the Public Hearing was closed at 6:13 p.m.

A. ROLL CALL –

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

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

Mr. Wilkos noted that for each motion voted on during this meeting Board Members would identify themselves and vote yea or nea verbally.

Mr. Wilkos announced that for any application which may be carried over beyond tonight's meeting Mr. Whitelaw would step down as a voting member and Dr. Meller would be moved to

full voting status. This is due to the upcoming Special Town Meeting and Mr. Whitelaw's anticipated election to the Select Board and resignation from the Planning Board.

B. PLEDGE OF ALLEGIANCE –

C. MISSION STATEMENT – The Mission Statement was read by Ms. Cooper.

D. MINUTES – February 22, 2021 Workshop and March 8, 2021 Regular Business Meeting.

Ms. Bevins Moved to Accept the Minutes of the February 22, 2021 Workshop as Submitted.

BEVINS / COOPER 5:0 UNANIMOUS

Mr. MacLeod Moved to Accept the Minutes of the March 8, 2021 Meeting as Amended. MACLEOD / BEVINS 5:0 UNANIMOUS

E. PUBLIC INPUT – The Planning Board welcomes input for any matter not on this agenda.

Mr. Wilkos asked if there was anyone from the public who wished to be heard. There was no one.

F. UNFINISHED BUSINESS –

1. PUBLIC HEARING FOR TOWN OF OGUNQUIT – Beach Street / Map 7 Block 132 – RP/SGD1.

Mr. Wilkos asked if there was anyone from the public who wished to be heard. There was no one and the Public Hearing was closed at 6:24 p.m.

1.A TOWN OF OGUNQUIT – Beach Street / Map 7 Block 132 – RP/SGD1. Site Plan Review Application to repair existing revetment in two locations: Beach Street adjacent to Map 7 Block 90 and Main Beach Parking Lot (Map 7 Block 132).

Josh Bouchard from CMA Engineers gave a brief project summary review. He confirmed that the project will begin in the Spring for completion in the Fall.

Mr. Bouchard confirmed that there will be a note on the plan indicating that the contractor will need to find a stone which will visually match the existing stone.

Mr. Bouchard confirmed that it will be the responsibility of the contractor to check, and clean, the culverts bi-weekly and when there is a large storm event.

Mr. Bouchard and Mr. Heyland agreed that the Applicant will provide a Permit By Rule Number.

The Board reviewed the Site Plan Review Approval Checklist and found all requirements to have been met (*a copy of the Site Plan Review Approval Checklist will be maintained in the Applicant's Planning Board File at the Ogunquit Land Use Office*).

Ms. Bevins Moved to Approve the Application for TOWN OF OGUNQUIT – Beach Street / Map 7 Block 132 – RP/SGD1. Site Plan Review Application to repair existing revetment in two locations: Beach Street adjacent to Map 7 Block 90 and Main Beach Parking Lot (Map 7 Block 132).

BEVINS / MACLEOD 5:0 UNANIMOUS

2. DAVE SAWANT / OGUNQUIT TIDES RESORT– 548 Main Street – Map 9 Block 85-86 GBD2. Site Plan and Design Review Application for change of use from residential / hotel use to a new Type 2 Restaurant; and from swimming pool house to restrooms.

Michal Kaleta from Lassel Architects, the Applicant's representative, asked if this application could be moved out of the agenda order and heard after the Nikanos application. The Board agreed.

Mr. MacLeod Moved to reschedule the application for DAVE SAWANT / OGUNQUIT TIDES RESORT– 548 Main Street – Map 9 Block 85-86 GBD2. Site Plan and Design Review Application for change of use from residential / hotel use to a new Type 2 Restaurant; and from swimming pool house to restrooms to later in this meeting.

MACLEOD / BEVINS 5:0 UNANIMOUS

After Hearing the Application for Marc Saulnier/Nikanos the Board resumed review of this application.

Mr. Wilkos noted that Mr. Whitelaw would sit out this application and Dr. Meller would be a full voting member for the duration of this application's review.

Michal Kaleta addressed the Board and give a summary of the proposed project as illustrated in the originally submitted application paperwork.

Mr. Kaleta noted that the existing parking lot will be restriped; and will contain sufficient parking for the proposed changes. The Applicant is not proposing to add any parking spaces or additional pavement.

Mr. Kaleta noted that he included calculations for lot coverage and parking on the Site Plan. He stated that the property will still be below the maximum 15% Lot Coverage; and the total number of parking spaces will not change – they will only be reconfigured.

The new dining area will be 2,181 ^{sf}, which will replace two existing tenant apartments.

Regarding the Design Review, the plan includes the addition of a patio for outside dining.

Mr. Heyland reviewed his March 1, 2021 Memo to the Board (*a copy of which will be maintained in the Applicant's Planning Board File*).

He noted that the Stream Protection Area is adjacent to the parking lot and he suggested the Board may want to have a conversation about inclusion of additional stormwater control measures. While the Applicant does not propose increasing the number of parking spaces, the use of that parking area may intensify with the addition of the new restaurant.

Mr. Heyland asked about the relocation of the dumpster next to the Stream Protection District; and he suggested additional vegetative buffering along the shoreline might be considered.

Mr. Wilkos reviewed Memos from Town Department Heads and the Ogunquit Sewer and Water Districts (*copies of which will be maintained in the Applicant's Planning Board File*).

It was noted that no photo of Building One was submitted; and Mr. Kaleta agreed to provide one.

The Board reviewed the Design Review Submission checklist and found all items to have been submitted or deemed to be not applicable to this project.

Mr. MacLeod Moved to find the Design Review Application complete for DAVE SAWANT / OGUNQUIT TIDES RESORT– 548 Main Street – Map 9 Block 85-86 GBD2. Site Plan and Design Review Application for change of use from residential / hotel use to a new Type 2 Restaurant; and from swimming pool house to restrooms. MACLEOD / BEVINS 5:0 UNANIMOUS

The Board reviewed the Site Plan Review Submission checklist.

Ms. Cooper noted that the Code Officer deemed Items 6.6.C.3.Y and 6.6.C.3.Z not applicable. Ms. Cooper suggested the Board may want to discuss them.

Ms. Cooper noted that much of the parking area is in the Stream Protection Area and she is concerned about trash and petroleum products from the parking lot getting into the stream and estuary. She would like to see some form of protective buffer between the parking area and the stream.

It was pointed out that the parking lot may not be used very much now, however the use may increase greatly if the new restaurant is a success. There was also concern about leakage and trash from the dumpster getting into the stream and estuary.

Mr. Kaleta responded that the dumpster is currently emptied every day, with the addition of the restaurant the dumpster may be emptied twice a day.

Mr. Heyland stated that the Conservation Commission is reviewing this application and the Planning Board should have their memo before the next meeting.

The Board noted that it had not yet received the Conservation Commission's comments; and that it wanted this input before it agreed to waive Items 6.6.C.3.Y and 6.6.C.3.Z

Mr. Kaleta confirmed that the restaurant will be open to the public as well as guests of the hotel.

Regarding the patio, it will be a curb-less patio with two pole lights and native plants landscaping.

Mr. Wilkos again pointed out that the Conservation Commission will be submitting a memo to the Planning Board; and the Board members want to see this memo before deciding whether to find Submission Items 6.6.C.3.Y and 6.6.C.3.Z not applicable.

Mr. Wilkos noted that the Applicant has submitted two Site Plan Submission Item Waiver Requests:

Item 6.6.C.3.T – Estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. The Applicant argued that the new restaurant will use an existing, and currently underutilized, parking area; and that it will have a separate entrance; and there is more than the required parking spaces.

Mr. Wilkos clarified that Item 6.6.C.3.T isn't to show parking; it is show calculations regarding the amount of traffic which will be generated by the new restaurant.

The Board agreed that regardless of how many parking spaces are on the site, the Board members want to see the amount of traffic which will be generated by the new restaurant. It wanted a traffic analysis prepared by a professional traffic engineer.

Mr. MacLeod reiterated that the issue is not how many parking spaces there are, the issue is how much vehicular traffic will be generated by the change of use from a currently underutilized hotel parking area to what may become a busy restaurant.

Applicant David Sawant stated that the primary patrons of the new restaurant will be from existing guests already on the property. This may be as many as 250 people on a busy August day. Also, he anticipates that other patrons coming to the restaurant will be people walking from nearby hotels.

Mr. MacLeod Moved to Deny the Waiver Request for Site Plan Submission Item 6.6.C.3.T because of the change and possible increase of use; and because the new traffic amounts are unknown.

MACLEOD / MELLER 5:0 UNANIMOUS

Item 6.6.C.3.U - A traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering (*for projects requiring 10 or more parking spaces, or projected 50+ trips per day*).

Mr. Heyland noted that there will be 2,200 sf of dining area which would require 22 parking spaces.

Mr. Wilkos pointed out that 22 is more than 10; and there is no way to evaluate projected trips per day without a professional review.

It was noted that this proposal is for a new restaurant use on Route One and the Board doesn't know what types: Breakfast, Lunch, and/or Dinner, or how many meals will be served per day.

Mr. MacLeod Moved to Deny the Waiver Request for Site Plan Submission Item 6.6.C.3.U. MACLEOD / COOPER 5:0 UNANIMOUS

Mr. Wilkos summarized that both Waiver Requests for Site Plan Submission Items: 6.6.C.3.T and 6.6.C.3.U were denied, in addition the Board has not determined whether Site Plan Submission Items 6.6.C.3.Y and 6.6.C.3.Z are applicable or not. Thus, the Application cannot be found complete.

Ms. Cooper asked for a few additional items when the Applicant returns to the Board:

- A project narrative;
- Landscaping plan indicating native plants, those included in this application are native to China and Brazil and are not native to Maine;
- This property includes five Zoning Districts and they should be indicated on the Plan;
- Confirmation that the proposed ADA bathroom met the required ADA Standards.
- Size of the delivery area should be noted on the Plan.

**Mr. MacLeod Moved to Table the Application for DAVE SAWANT / OGUNQUIT TIDES RESORT– 548 Main Street – Map 9 Block 85-86 GBD2. Site Plan and Design Review Application for change of use from residential / hotel use to a new Type 2 Restaurant; and from swimming pool house to restrooms.
MACLEOD / COOPER 5:0 UNANIMOUS**

3. PUBLIC HEARING FOR MARC SAULNIER/NIKANOS HOLDINGS LLC – 173 Main Street – Map 6 Block 14 – GBD1.

Shannon Alther from TMS Architects and Marc Saulnier addressed the Board and gave a brief summary of the newly submitted material and amended plan.

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

Several direct abutters and other members of the public all expressed support for the application, praise for Mr. Saulnier’s restaurant and community involvement, and the belief that the proposed changes to the Nikanos property will bring a much needed visual improvement to the southern entrance to Ogunquit:

- Mike and Sue Feniger (Rocky Lane);
- Jane Tavares (Brewster Lane);
- Barney Frank (Main Street);
- James Ready (Main Street);
- Scott Stone (Dunelawn Drive);
- Mike Giguere (Cedar Lane);
- Joan Bannister (Hutchins Antiques and Parking Lot on Main Street).

Mr. Wilkos asked if there was anyone else who wished to be heard. There was no one and the Public Hearing was closed at 6:59 p.m.

3.A MARC SAULNIER/NIKANOS HOLDINGS LLC – 173 Main Street – Map 6 Block 14 – GBD1 – Design Review and Site Plan Review. Application for expansion of a Type 2 Restaurant.

Mr. Wilkos reminded everyone that the Board held a Site Visit earlier during the day; and he noted that two traffic study waiver requests were granted at the last meeting.

Mr. Heyland asked if the front vehicle travel lane would have directional indicators.

Mr. Saulnier responded that they generally block that area off; however they can put up signage or a moveable barrier. The lane is kept blocked off however any barrier needs to be easily moved to allow for emergency vehicle access.

Mr. Alther agreed to provide the maximum numbers of inside seating and outside seating.

Mr. Alther noted that the Applicant submitted an amended memo regarding reducing the required parking.

Mr. Wilkos stated that the Board needs to decide on the number of parking spaces; and he asked the Board members how they felt about reducing the required parking to eight spaces as requested by the Applicant.

Ms. Cooper responded that she would be OK with reducing the parking to eight spaces as long as the Applicant agrees to limit the seating to 90.

Mr. Whitelaw agreed that this application does not overexpand the site, it improves the visual appeal of the entrance to Town, and given the proximity of public parking and the frequency of pedestrian traffic, he felt that eight parking spaces would be appropriate.

The other Board members agreed.

The Board reviewed the Design Review Approval Checklist and found all standards to have been met (*a copy of the Design Review Approval Checklist will be maintained in the Applicant's Planning Board File at the Ogunquit Land Use Office*).

Mr. MacLeod Moved to Approve the Design Review Application for MARC SAULNIER/NIKANOS HOLDINGS LLC – 173 Main Street – Map 6 Block 14 – GBD1 – Design Review and Site Plan Review. Application for expansion of a Type 2 Restaurant. MACLEOD / BEVINS 5:0 UNANIMOUS

Mr. Alther stated that the restaurant has a maximum seating capacity of 128 seats; which may be split into two smaller sections of 58 inside and 70 outside.

The Board reviewed the Site Plan Review Approval Checklist and found all requirements to have been met (*a copy of the Site Plan Review Approval Checklist will be maintained in the Applicant's Planning Board File at the Ogunquit Land Use Office*).

Mr. MacLeod Moved to Approve the Site Plan Application for MARC SAULNIER/NIKANOS HOLDINGS LLC – 173 Main Street – Map 6 Block 14 – GBD1 – Design Review and Site Plan Review. Application for expansion of a Type 2 Restaurant. MACLEOD / WHITELOW 5:0 UNANIMOUS

4. PUBLIC HEARING FOR WAYNE GRIFFIN – 99 Perkins Cove Road – Map 3 Block 68 - SGD2. Design.

Mr. Wilkos opened the Public Hearing at 9:06 p.m. He asked if there was anyone from the public who wished to be heard. There was no one and the Public Hearing was closed at 9:07 p.m.

4.A WAYNE GRIFFIN – 99 Perkins Cove Road – Map 3 Block 68 - SGD2. Design Review Application for a pre-1930 structure. Application to Replace the structure’s pitched roof with a new roof deck.

Mr. Wilkos noted that the Applicant has decided to go with Plan B which is the option the Ogunquit Historic Preservation Commission (hereafter referred to as OHPC) accepted. He also noted that Mr. Whitelaw would be voting on this application.

Ms. Cooper responded that she is glad the Applicant has agreed to proceed with Plan B; she noted the historical importance of this part of town; and she asked if the Applicant would consider moving the deck back even further than the proposed six feet.

The Board members generally agreed that proceeding with Plan B is a good compromise between what the Applicant wants to do with his property and what the OHPC recommended to protect the historical integrity of the building and the neighborhood.

Mr. Wilkos asked if the Board had any additional comments or questions. There were none and the Board reviewed the Design Review approval checklist (*a copy of the Design Review Approval Checklist will be maintained in the Applicant’s Planning Board File at the Ogunquit Land Use Office*).

Ms. Bevins Moved to Approve the Application for WAYNE GRIFFIN – 99 Perkins Cove Road – Map 3 Block 68 - SGD2. Design Review Application for a pre-1930 structure. Application to Replace structure’s pitched roof with new roof deck, based upon Plan B. BEVINS / MACLEOD 5:0 UNANIMOUS

G. NEW BUSINESS –

Mr. Wilkos noted that Dr. Meller would be a full voting member for the following two applications.

1. EIGHT SHORE ROAD, LLC / BESSIE’S – 8 Shore Road – Map 7 Block 120 – DBD. Design Review Application for a pre-1930 structure. Application to replace fixed plate glass windows with egress windows; and to replace residential oval glass doors with commercial glass doors.

Jerry DeHart from Coastal General Construction, addressed the Board as the Applicant’s representative. He noted that the OHPC reviewed this application and they were in favor of the minor proposed changes to the building.

Mr. DeHart noted that there will also be a new glass door and the relocation of one fixed window.

Mr. MacLeod again reviewed the OHPC's March 10, 2021 Memo to the Board.

The Board reviewed the Design Review Submission Checklist and found all items either submitted or deemed to be not applicable.

Mr. MacLeod Moved to Find the Application Complete for EIGHT SHORE ROAD, LLC / BESSIE'S – 8 Shore Road – Map 7 Block 120 – DBD. Design Review Application for a pre 1930 structure. Application to replace fixed plate glass windows with egress windows; and to replace residential oval glass doors with commercial glass doors. MACLEOD / COOPER 4:0 (Ms. Bevins was excused from the remainder of this meeting).

The Board determined that neither a Public Hearing nor Site Visit would be needed.

Ms. Cooper asked about the safety of the proposed windows and what would prevent a patron from falling out when the windows are open.

Mr. DeHart responded that they are used all over the country and have a very good safety record.

Mr. Vogel added that there will likely be tables against the windows and people will not be allowed to hang out or sit on the window ledges.

Mr. Wilkos asked if the Board had any additional comments or questions. There were none and the Board reviewed the Design Review approval checklist (*a copy of the Design Review Approval Checklist will be maintained in the Applicant's Planning Board File at the Ogunquit Land Use Office*).

Mr. MacLeod Moved to Approve the Application for EIGHT SHORE ROAD, LLC / BESSIE'S – 8 Shore Road – Map 7 Block 120 – DBD. Design Review Application for a pre-1930 structure. Application to replace fixed plate glass windows with egress windows; and to replace residential oval glass doors with commercial glass doors. MACLEOD / COOPER 4:0 (Ms. Bevins was excused from the remainder of the meeting)

2. EB REALTY TRUST / THE PRESERVE AT ROBY'S POND– Roby's Pond Road – Map 13 Blocks 7 and 7-1 RR1/GBD2. Subdivision Sketch Plan Application for a five lot cluster subdivision.

Ryan McCarthy from Tidewater Engineering and Surveying addressed the Board as the Applicants' representative. Mr. McCarthy gave a brief summary, which included visual presentation of site plans of the proposed subdivision as submitted with the Sketch Plan Application material.

Mr. Wilkos noted that the Board received several abutter e-mails which would be presented and reviewed at the Public Hearing.

Mr. Feldman reviewed his March 22, 2021 Memo to the Board (*a copy of which will be maintained in the Applicants' Planning Board File with the Ogunquit Land Use Office*).

Mr. Wilkos reviewed the Town Department Heads' memos to the Board (*copies of which will be maintained in the Applicants' Planning Board File with the Ogunquit Land Use Office*).

Mr. MacLeod asked if the Ordinance requires sewer connection for property closer than 1,500 feet from an existing sewer line. He also noted that Captain Thomas Road is due to be repaved in the near future.

Mr. MacLeod asked for letters from the Water and Sewer Districts.

Mr. McCarthy responded that the Ordinance says that it isn't required to connect to the sewer if it is deemed to be not feasible.

Mr. MacLeod responded that there is a history of water contamination associated with Roby's Pond which outflows into the Ogunquit River; and if septic systems are used in this subdivision they will be very closely examined and the requirements on the septic plans will be very tight.

Mr. Heyland noted that Mr. McCarthy is correct, the Ordinance does say that where feasible the Board has the right to accept private disposing systems.

Mr. McCarthy asked if there has been water testing recently at Roby's Pond.

Ms. Cooper noted a few things she would be looking for:

- Checking of the culvert and weir;
- DEP Permit by Rule and NRPA PBR available to the Board;
- Layout of any septic systems;
- Explanation of the difference between the Net Residential Area and Open Space calculations;
- Vernal Pool studies;
- CTH – what is the plan to minimize potential injury to animals and the critical terrestrial habitat, particularly in the Right Of Way?
- Explanation of the tree lines on the Site Plan;
- Hydrological Analysis.

Dr. Meller expressed concern about the use of septic systems; as well as ground water pooling on abutting properties – he will be asking about drainage and melt water runoff.

Dr. Meller noted that Lot 5 has an additional encumbrance of the “No Disturbance Buffer Area”.

The Board scheduled a Site Visit to take place on April 12, 2021 at 3:30 p.m.

Mr. Heyland reviewed the requirements for a Site Visit as outlined in Section 5.4 of the Ogunquit Subdivision Regulations.

H. CODE ENFORCEMENT OFFICER BUSINESS –

I. OTHER BUSINESS –

1. Discussion regarding proposed Ogunquit Zoning Ordinance Lighting Amendments.

It was agreed that all the proposed changes would be presented as a single group.

It was noted that the Board is not encouraging the display of retail store merchandise outside. However it was also noted that some retail stores have some outdoor seating for patrons to use when waiting or resting, even without the outdoor display of goods.

It was generally agreed that, for fairness, retail businesses would be included in the amendment.

Mr. Heyland agreed that the proposed language is something he can enforce.

After a few small changes to the language, the Board agreed to send the proposed Ordinance amendment language to the Select Board for inclusion on the warrant for the June 2021 Town Meeting.

Mr. MacLeod Moved to amend the language of Article 8.7.B to include: “Strings of lights are allowed for retail establishments and for outdoor seating at Type 2 Restaurants and retail establishments provided they are turned off at the close of business nightly and have dark sky friendly shades on the lights similar to those below...”

MACLEOD / WHITELOW 4:1 (Ms. Cooper Dissenting; and Ms. Bevins excused).

Mr. MacLeod Moved to Submit the Ogunquit Ordinance amendments language to the Select Board for inclusion on the June 2021 Town Warrant.

MACLEOD/WHITELOW 5:0 UNANIMOUS

J. ADJOURNMENT –

Mr. MacLeod Moved to Adjourn at 10:55 p.m.

MACLEOD / COOPER 5:0 UNANIMOUS

Respectfully Submitted

Maryann Stacy

Maryann Stacy

Town of Ogunquit

Planning Board Recording Secretary

Accepted on April 12, 2021

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.*
- *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.*