



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

**OGUNQUIT PLANNING BOARD
REGULAR BUSINESS MEETING
MINUTES
JANUARY 24, 2022**

A. ROLL CALL – 6:00 p.m.

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

Members Excused: Jackie Bevins

**Mr. MacLeod Moved to Excuse Ms. Bevins.
MACLEOD/COOPER 4:0 UNANIMOUS**

Mr. Wilkos noted that, due to Ms. Bevins' excused absence, Mr. Dufton would be a full voting member for the duration of this meeting

B. PLEDGE OF ALLEGIANCE –

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

D. MINUTES – January 10, 2022 Tiny Homes Workshop and January 10, 2022 Regular Business Meeting.

**Dr. Meller Moved to Accept the Minutes of the January 10, 2022 Workshop as Submitted.
MELLER/COOPER 4:0 UNANIMOUS (Mr. MacLeod was excused from the January 10, 2022 Workshop).**

**Ms. Cooper Moved to Accept the Minutes of the January 10, 2022 Meeting as Submitted.
COOPER/MELLER 4:0 UNANIMOUS (Mr. MacLeod was excused from the January 10, 2022 Meeting).**

E. PUBLIC INPUT –

Mr. Wilkos asked if there was anyone who wished to be heard on any matter not on this meeting's agenda.

Two members of the public began to speak about one of the applications on the agenda for this meeting and Mr. Wilkos asked them to wait until the Public Hearing. They both agreed.

F. UNFINISHED BUSINESS –

1. PUBLIC HEARING: PANGAL, LLC / RHONDA DESISTO – 307 Main Street – Map 7 Block 19 – GBD1.

Geoff Aleva gave a brief summary of the proposed reconstruction of the two buildings which will be demolished.

The replacement of the house will be a new single family residence. The replacement of the existing barn will contain a single family residence and an artist's workshop; and there will be no retail space associated with it. Regarding parking, the farmhouse will have its own garage and parking area and the barn/residence/artist studio will have two parking spaces. Two new patios will be made of pervious surfaces to reduce water flow. Regarding lot coverage, the lot coverage will be reduced from the existing 19% down to 17.5%.

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

Bobbi Treen asked about the Board's Granting Approval to demolish the existing barn and farmhouse:

What has changed since the Board's denial to demolish in 2008?

Why was demolition approved when the owner of the property, who made a commitment to maintain the property, did nothing, which led to its erosion?

Was the permit granted based on a meeting which was held in spite of the full information for the meeting and decision making being missing? Was the meeting held when it should have been postponed based on strong opposition by the Ogunquit Preservation Commission?

Who granted the permit, given that the Town didn't have a Code Officer at the Time?

The Demolition Permit overlooks this building's appeal of tourism and the lifeline of that income to the Town. It tramples the importance that this home, built in 1845, brings to the character of the Town. It is the gateway to the Town's historic character and district. She called for a rescission of the Board's Decision to Approve demolition and a new full Hearing regarding the demolition based on the 43 page packet submitted by the OHPC.

Barbara Ferraro reiterated Ms. Treen's comments and she asked if any members of the Board questioned the process to approve demolition after he/she saw the OHPC's 43 page packet. She noted that Mr. Wilkos stated several times at the December 13th meeting that the only question before the Board at that time was a determination of the historical significance of the two structures and she asked why the Fire Chief spoke about his concerns about the structure's condition; and did that effect any Board Member's decision? She also asked why the owner didn't submit the Select Board's 2008 determination on this project? She also asked for the Maine State Historical Society's input. Ms. Ferraro also called for a reconsideration of the Board's vote to demolish the two buildings.

James Hartwell remembers that there were grants from the State of Maine to help maintain the structures. He stated that he didn't understand how this pre-1930 building could be torn down. He asked if it was a decision of the Planning Board.

Abutter Elizabeth Ford stated that she thought this property was in the Shoreland Zone, it definitely is in the Stream Protection District, and it has a deed restriction from the MDEP for a stormwater vegetative buffer. The property currently consists of one relatively new commercial building and two pre-1930 structures. She expressed concern that the Conservation Commission has not reviewed and given input on this application. She asked if any inspections have been done for hazardous materials: asbestos, lead paint, oil. As a direct abutter she confirmed that the two buildings have been open to the elements, and the roofs and floors have fallen in. The chimney of the house is falling down and parts of the buildings have collapsed. She is concerned about the danger of fire, and she suggested that members of the public advocating for saving these structures should ask the owner for permission to see them in person.

Mr. Wilkos reviewed a letter the Board received from Abutter Peter Ford (*a copy of this letter will be maintained in the Applicant's Planning Board File in the Land Use Office*).

Barbara Ferraro stated that the original conditions of approval for the commercial building were not followed; and she expressed concern that the message being sent to the public is that historic properties may be left unmaintained and eventually owners will be allowed to demolish them.

Geoff Aleva responded to public comments. He noted that he did meet with the OHPC before coming to the Planning Board and the OHPC did not make any recommendations with their vote. The 43 page packet which has been referenced by members of the public was not officially provided by the OHPC, but by an individual citizen who also happens to be on the OHPC.

Regarding the new "farmhouse" the new structure will be moved away from the lot line decreasing the nonconformity. The new structure will have the same dimensions as the existing farmhouse. The area abutting the Ford's property will be brought back and landscaped. The new barn structure will not be in any setbacks and will be completely conforming.

Regarding a review by the Conservation Commission, this property does not contain any wetlands. There is a stream several properties away from the southwest corner of the lot and a portion of the Stream Protection Area for that stream does include a portion of the southwest corner of the Applicant's lot as noted on the Site Plan. This includes the buffer area from the center line of the stream.

Regarding building coverage, they are reducing the coverage and will be using pervious pavers to help reduce potential stormwater runoff. There are provisions on the plan for erosion control and these provisions will be reviewed by the Code Officer prior to construction. The proposed project will not change current drainage paths.

Regarding demolition, when a demolition permit is issued the contractor is required to follow State Guidelines for removal of lead, asbestos, etc. This is not part of the Planning Board Site Plan Review.

Mr. Wilkos responded to public comments regarding the process. The Planning Board is a quasi judicial board which must follow the Ogunquit Zoning Ordinance. He referenced Ogunquit Zoning Ordinance Section 225-11.5.c regarding the Design Review process. He noted that the OHPC met, and in their memo to the Planning Board they stated that they voted not to accept the

application. This was the only official correspondence to the Planning Board from the OHPC. Material which was subsequently submitted was not submitted as part of a vote of the OHPC.

Elizabeth Ford asked if the new building can only be replaced on the existing foundation. It is her understanding that no new foundation will be added. She also suggested that a nonconforming building should not be replaced with a new non-conforming building. The new building should be made to be conforming.

Mr. Aleva responded that a portion of the new building may only have a crawlspace, and it will have a foundation. The proposed relocation of the new farmhouse is being done in conformance with the Town's current Zoning Ordinance.

Barbara Ferraro asked for clarification that because Ms. Northrop submitted the 43 page packet on her own that it has no significance. She also again asked for the letter from the State Historical Office.

Mr. Wilkos reiterated that the OHPC voted not to accept the application. That is the only official correspondence from the OHPC.

Mr. Aleva stated that he forwarded the State's letter to the Land Use Office. The letter confirmed that all properties have the ability to be placed on the Historic Register but it is up to the property owner to apply.

Kirsten Ross noted that the two buildings to be demolished are near the stream and she asked how any hazardous material will be assessed and removed prior to demolition. She expressed concern about hazardous material impacting the streams and the watershed.

Mr. Aleva responded that prior to demolition the contractor will install erosion control barriers which will prevent material from getting into the drainage buffer or leaving the property. As part of the Building Permit process the contractor is responsible for remediation to prevent any hazardous material from leaving the property. This is overseen by the Code Enforcement Office.

Ms. Ross asked how "legacy toxins" like lead and asbestos will be prevented from getting not only directly into the watershed but dust from entering the soil and being redistributed through future landscaping activities.

Mr. Aleva responded that the barn probably does not contain any of these contaminants. There are DEP procedures for demolition of buildings which contain asbestos and/or lead. Contractors dealing with these old structures are well educated in the requirements and mediation practices.

Bobbi Treen asked if the decision the Board made to grant approval to demolish the two structures will not be reversed; and if the OHPC had perfected their review input to the Planning Board would that have possibly made a difference in the Board's final decision?

Mr. Wilkos responded that the Board followed the Ordinance with regard to reviewing the application for demolition. There was a motion made by a Board member to reconsider however such a motion must be made by a member of the Board who voted in the affirmative and that did not happen. Also such a reconsideration must be held at a following meeting.

Ms. Ferraro asked which Board member asked for reconsideration; and why the Board wouldn't revisit the question of demolition once it had the additional information supplied by Ms. Northrop. She also asked why the issue of the Applicant's failure to maintain the property, as agreed to in 2008, isn't being considered more seriously.

Mr. Wilkos responded that Ms. Cooper moved to reconsider. There was no second to the motion and it failed for lack of a second. It was also noted that the motion must be made by a Board member who voted in the affirmative. Ms. Cooper did not vote in the affirmative on the original motion. Also, according to the Ordinance a vote may only be reconsidered at the following meeting.

Mr. Wilkos asked if there were any additional questions or comments from the public. There being none and the Public Hearing was closed at 7:02 p.m.

1.A PANGAL, LLC / RHONDA DESISTO – 307 Main Street – Map 7 Block 19 – GBD1. Site Plan and Design Review for two pre 1930 structures. Application to remove existing house and barn and construct two new structures.

Mr. Wilkos asked Ms. Cooper if she felt she could make a fair and impartial decision on this application given that she conducted research regarding this property.

Ms. Cooper responded that she can be totally unbiased. She stated that she did not do any research on this application. She did research on this property two years ago and not as part of this application. She sees this as a new application for new buildings which now has nothing to do with the decision of the Planning Board to approve demolition. She can be totally unbiased.

Mr. Wilkos polled the Board and it was agreed 3:1, with Mr. Wilkos dissenting, that Ms. Cooper can deliberate unbiasedly and she should remain part of the review and decision making process.

Mr. Wilkos stated that they would start with Design Review.

Mr. MacLeod noted that there is no information on the height of the new buildings.

He also asked about the front of the proposed new barn. The siding and windows on the front of the new building are much more modern than the existing building. This is the side most visible from Main Street. He suggested that the side of the building seen from the street should stick more closely to the look and style of the original building.

Mr. MacLeod asked about the proposed front and rear dormers on the new farmhouse. The original farmhouse does not have any dormers. He wants to know what impact these new dormers will have on the interior space calculations.

Mr. MacLeod asked about the proposed use of sliders on the south end of the new farmhouse. He noted that they are 21st century windows on a 19th century style building.

He also asked for the Ordinance citation which says that a nonconforming building does not have to meet setbacks when it is replaced with a new building.

Mr. Aleva responded that regarding the Barn, the building height will be less than 35 feet and it will meet all code requirements. The appearance will retain the barn type of structure with the use of new materials and more modern flair for the artist studio space. The artist space is one floor with cathedral ceilings up to the roof peak. The idea of the bank of windows is to provide a great deal of natural light into that artist's work space.

Regarding the farmhouse, the height of the new building will match the existing structure. He will add elevations with measurements to the drawings. The intent is to mimic the existing farmhouse as much as possible. He is aware of the Ordinance requirement that the top ½ story may only have half the square footage of the floor below. Regarding the dormers the intent is to mimic the existing farmhouse while at the same time blend with the Panache Gallery which has dormers on the same side.

Regarding the slider windows on the ell portion of the farmhouse. The intent is to add as much natural light as possible to that narrow portion of the structure.

Mr. Feldman referenced Chapter 225-3.3.C of the Ordinance which deals with Non-Conforming Structures and Chapter 225-3.3.E which deals with the question of reconstruction of non-conforming structures. He agreed that this question is worthy of the Board's discussion.

Mr. MacLeod noted Ordinance language which refers to the structure being damaged or destroyed by fire or any cause other than the willful act of the owner or the owner's agent. He questioned whether or not the applicant should be allowed to reconstruct outside the setbacks under 225-3.3.E.

Mr. Dufton agreed with Mr. MacLeod. He suggested that reconstruction outside the setbacks is intended for buildings destroyed by natural causes, however in this case where the structure is being demolished he suggested the Ordinance is clear that the new structure needs to meet all existing setbacks and other zoning requirements.

Mr. Dufton stated that he understood that the architect/designer would be available for the Board to talk to at this meeting.

Attorney Sean Turley, representing the Applicant, stated that it is their position that the damage to the buildings is due to the passage of time and not due to an act of the Applicant. There was no conscious decision to destroy the property or otherwise deteriorate it.

Ms. Cooper interprets this application as the total demolition and rebuilding of the structures. The rebuilding needs to meet all zoning requirements. She believes that the interpretation of Chapter 225-3-3-E requires the rebuilding to meet all the requirements of the current Ordinance including the setbacks.

Dr. Meller agreed with Ms. Cooper and added that he might consider neglect a "willful act of the owner".

Mr. Wilkos asked if the question; "is it a willful act of the property owner to allow the structures to deteriorate" should be referred to the Town Attorney for her interpretation.

Mr. Wilkos suggested that the 43 page packet submitted to the Land Use Office along with a cover letter signed “Marsha Northrop, Co-Chair of the OHPC” was not an official submission by the entire OHPC and should be considered as coming from a private citizen because it was not submitted as part of the OHPC’s official input to the Planning Board.

Mr. Wilkos also suggested that the OHPC could meet again and, if they all agree, the material could be resubmitted as officially coming from the OHPC, or the member who submitted it on her own could resubmit it as a private citizen.

Dr. Meller expressed confusion over the importance of what happened in 2008. Today they are dealing with a house/barn that has been allowed to disintegrate internally. The question before them is reconstruction. He believes the reconstruction should adhere to current zoning standards.

Mr. Dufton agreed with Dr. Meller.

The Board unanimously agreed that neglect may not be an “act of nature” and the reconstructed farmhouse should probably have to meet current zoning requirements including setbacks. It was also agreed that the question would be submitted to the Town Attorney for her review and interpretation. It was agreed that the application should be tabled pending input from the Town Attorney.

Mr. Aleva asked the Board to review the Design Review for the Barn while they await the Town Attorney’s input on the Farmhouse.

The Board agreed to discuss the Barn, they will not take any votes at this time, only discuss the design.

Mr. MacLeod asked about the pervious pavers. He noted that pervious pavers require maintenance. If they are not maintained they quickly become impervious.

Mr. Aleva agreed that there are maintenance requirements. There is a gravel bed which needs to be placed under the pavers. The maintenance involves not using salt on them and periodically vacuuming them. The plan is to do whatever they can to decrease stormwater runoff.

Mr. MacLeod asked about plans to control rainwater runoff from the barn roof.

Mr. Aleva responded that the plan is for rainwater to run off the barn and enter the paver/gravel bed and slowly infiltrate into the ground and make its way to the discharge buffer. The other areas where rainwater will hit, lawn areas, will also slowly infiltrate the soil and make their way to the buffer.

He agreed to provide maintenance requirements to the Land Use Office.

Mr. MacLeod stated that he did not have Plan L-2. The other Board members noted that they did not have it either.

Mr. Aleva agreed to provide it for the next meeting.

Ms. Cooper noted that the Board was told that the new barn would be at the same spot as the edge of the existing barn, however it appears from the plans that the new barn will be 40 feet from the property line while the existing barn is 60 feet. She noted the huge berm area 4 feet below the edge of the barn. She expressed concern about the removal of soil for the new foundation.

She asked for the plans to outline, more specifically, what the erosion control measures will be and how the stream will be protected.

Mr. Aleva responded that they will not impact any of the vegetated buffer. He also agreed to provide additional information about stream protection.

Ms. Cooper asked about Note 12 regarding the vegetative buffer put in by the abutting subdivision and she asked for confirmation that it would not be disturbed at all.

Mr. Aleva confirmed it would not be disturbed.

Ms. Cooper asked about the proposed coverage on L-1. She suggested the “existing coverage” should be “proposed coverage”. She suggested it is a typo.

Dr. Meller expressed concern about the stormwater management. He asked if the Board might want an independent engineer to review it. He asked if a retention pond might be needed.

Mr. Aleva responded that the engineering is his purview and he does not feel a retention pond is needed.

Dr. Meller also asked for more specific information about the siding and windows for the new buildings.

Mr. Dufton asked for screen sharing of any plans. He noted that Mr. Aleva brought plans to the meeting hall in person which the Board members could not see because they were all participating via ZOOM.

Ms. Cooper asked about parking spaces for the barn.

Mr. Feldman responded that they will need two spaces for the residential unit and whatever standards need to be met for the artist studio space of the building.

It was agreed by the Board that the Conservation Commission, which has very recently been reappointed, should review the application.

Mr. Aleva asked, under what purview the Conservation Commission will review this project. He noted that they are not in the Shoreland Area and they are not impacting wetlands or existing stormwater buffers.

It was noted that Chapter 225-6.6.2 requires Site Plan Review Applications be sent to the Conservation Commission for review.

Mr. Feldman agreed to contact the Town Attorney regarding Chapter 225-3-3-E and the question of the setback standards required for the new farmhouse.

**Mr. MacLeod Moved to Table the Application pending input from the Town Attorney.
MACLEOD/MELLER 5:0 UNANIMOUS**

G. NEW BUSINESS – None

H. CODE ENFORCEMENT OFFICER BUSINESS – Welcome Director of Code Enforcement Tyler McOsker.

I. OTHER BUSINESS –

1. Discussion following Stormwater Management / Erosion Control Workshop.

Mr. MacLeod noted that the SMPDC Model Ordinance will be coming to the Town in the fall. He suggested the Board schedule another workshop to review the current ordinance and discuss possible changes.

Ms. Cooper agreed with Mr. MacLeod and she further suggested the Board needs further education. She recommended something similar to the Erosion and Sedimentation Workshop held earlier in the week.

Mr. Dufton agreed that the Board might review the current ordinance and make a few amendments. He disagreed that the Board was “less than informed”.

Mr. Wilkos informed the Board that the Select Board has asked the Planning Board to workshop Outdoor Sales. He suggested a workshop at the next meeting on February 14th at 4:00 p.m. The Board agreed.

Mr. Wilkos asked the Board what they wanted to do about the other workshop topics.

Ms. Cooper reminded everyone that the Sustainability Committee needs to come before the Select Board in April. The Planning Board needs to have some information for them and be working on things. She suggested Tiny Homes could be set aside for awhile.

Dr. Meller agreed that Tiny Homes might be set aside for a little while.

Mr. Dufton agreed that the Stormwater workshop should be a priority.

Mr. Feldman agreed that some of the items Mr. MacLeod suggested in his memo are simple amendments which can be added to the Ordinance easily. He suggested the Board consider whether or not the changes should be made only to the Zoning Ordinance or to the Subdivision Ordinance as well.

It was suggested that the representative from Acorn Engineering come before the Planning Board for an educational workshop, if there are sufficient funds in the budget.

Mr. Dufton questioned what the Planning Board’s role is with regard to some of the

environmental oversight being discussed. He suggested some of the issues should more appropriately be considered by the Conservation Commission or the Sustainability Committee.

It was agreed that a workshop on the Stormwater Management be scheduled for February 28th to give time to determine whether Acorn Engineering can attend and if there is sufficient money in the budget.

A workshop on Outdoor Sales was scheduled for February 14th at 4:00 p.m. It was agreed that the Chamber of Commerce should be notified.

A workshop on Tiny Homes was scheduled for February 14th at 5:00 p.m.

A workshop on Stormwater Management was tentatively scheduled for February 28th at 5:00. pending confirmation that there are sufficient funds in the budget and that Acorn Engineering is available. Mr. Wilkos asked to have the Town Manager contact Acorn Engineering.

2. Discussion regarding Fee for Applications to Amend OZO or Official Town Map; official request for the Select Board to establish and set said fee.

It was agreed that the Planning Board would ask the Select Board to set a fee for Applications for Changes to the Town Zoning Ordinance and / or the Official Town Zoning Map.

J. ADJOURNMENT –

**Mr. MacLeod Moved to Adjourn at 8:45 p.m.
MACLEOD/MELLER 5:0 UNANIMOUS**

Maryann Stacy

Maryann Stacy
Town of Ogunquit
Planning Board Recording Secretary

Accepted 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.*
- *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.*