



Town of Ogunquit
Planning Board
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**OGUNQUIT PLANNING BOARD
REGULAR BUSINESS MEETING
MINUTES
FEBRUARY 28, 2022**

A. ROLL CALL – 6:00 p.m.

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

B. PLEDGE OF ALLEGIANCE –

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

D. MINUTES –

January 24, 2022 Stormwater and Erosion Control Workshop.

**Mr. MacLeod Moved to Accept the Minutes of the January 24, 2022 Stormwater and Erosion Control Workshop as Amended.
MACLEOD/ MELLER 5:0 UNANIMOUS**

January 24, 2022 Regular Business Meeting.

**Mr. MacLeod Moved to Accept the Minutes of the January 24, 2022 Regular Business Meeting as Amended.
MACLEOD/MELLER 5:0 UNANIMOUS**

February 14, 2022 Tiny Homes Workshop.

**Mr. MacLeod Moved to Accept the Minutes of the February 14, 2022 Tiny Homes Workshop as Amended.
MACLEOD/MELLER 5:0 UNANIMOUS**

February 14, 2022 Outdoor Sales Workshop.

Dr. Meller Moved to accept the Minutes of the February 14, 2022 Outdoor Sales Workshop as Amended.

MELLER/COOPER 5:0 UNANIMOUS

February 14, 2022 Regular Business Meeting.

Mr. MacLeod Moved to Accept the Minutes of the February 14, 2022 Regular Business Meeting as Amended.

MACLEOD/COOPER 5:0 UNANIMOUS

E. PUBLIC INPUT –

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 –

- 1. 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.**

Geoff Aleva from Civil Consultants addressed the Board as the Applicant's representative. Mr. Aleva summarized the amended Site Plan noting that the location of the new farm house will be out of the setbacks and the structure will be completely in compliance with Town Ordinances. The small ell on the side of the farmhouse will be slightly reduced in size.

Regarding the barn, the original plans have not changed.

Mr. Aleva noted newly submitted material which provides additional information regarding the pervious pavers, erosion control measures, and parking layout.

Ms. Cooper asked about the retaining walls on the south and north west sides of the barn. She asked about the swale behind the barn. She also asked about the amount and handling of the soil which will be removed.

Mr. Aleva agreed that there will be fill added. He noted the retaining walls should reduce the amount of fill which will be required. Regarding the "swale" Mr. Aleva displayed the Site Plan (*a copy of which will be maintained in the Applicant's file*) pointing out the location of the "swale" and areas of the property where elevations will be changed.

Mr. Aleva noted that water will flow from the north down towards the south east side of the property and no water will be directed towards abutters. He noted that standard erosion control measures will be in place during construction to minimize any impact towards the south west corner of the property or the abutters.

Mr. Aleva pointed out the location of the discharge buffer along the south east side of the property. This buffer area was originally part of the abutting subdivision. He noted that there will be no impact on the buffer for the abutting stream.

Mr. Aleva confirmed that water and sewer lines will need to be brought into the new barn structure, and the farm house lines will be separate and connect out on Main Street. Electrical lines will be underground per CMP requirements and guidelines.

Mr. Aleva agreed to use as many native plantings as possible in the landscaping.

Regarding parking, Mr. Aleva agreed that the property use, as proposed, would require more parking spaces than they will have. He pointed out that he has submitted a Waiver Request for one parking space required for the artist studio.

Ms. Desisto, owner of the property, explained that most of the people who come to her business are pedestrians and at any given time there are four or five open parking spaces. She noted that the DOT installed a crosswalk directly in front of the property. She added that even when patrons do arrive by car, there aren't too many of them and they don't stay overly long. She is asking for a waiver for the one parking space for the artist studio.

Ms. Desisto reminded everyone that Ogunquit is a walking town and with the new sidewalks most people are on foot.

Mr. MacLeod agreed that it would be best to not expand the paved parking area any more than necessary. He also noted the location of this property which is very close to the downtown area, and he agreed that most patrons will be on foot.

Dr. Meller asked to have the apartment space specifically designated on the plan, and the Applicant agreed to do so.

Ms. Desisto confirmed that the handicapped parking space will also be specifically designated.

Mr. MacLeod Moved to Grant a Parking Waiver for one parking space regarding Submission Item 6.6.C.3.X – Parking Plan in reference to Ordinance Chapter 225-8.10 Off-street Parking and Loading.

MACLEOD/MELLER 4:1 (Ms. Cooper Dissenting)

Mr. MacLeod asked the Applicant to include a notation on the Final Plan that she will agree to use Dark Sky Lighting.

Ms. Cooper stressed that in order to keep the historic flavor of the property it would be her preference that there be no dormers on the farm house. She also asked to have the windows in the barn be straight across.

Ms. Desisto responded that the dormers on the house are reflective of the dormers on the gallery building. In addition there are many homes in Ogunquit with dormers. Regarding the barn windows, this is a design element which she prefers, in addition many of her neighbors looked at the plans and agreed that they really like the look. Also the barn isn't visible from Main Street

except from the very end of the driveway. Ms. Desisto stated that these design elements are her choice and she does not want to change them.

Mr. Aleva again reviewed the stormwater runoff plan. He noted that water runoff will be directed to the south west corner of the property where the vegetation will filter it. He doesn't see any need for water retention ponds and he doesn't expect much increase in water flow from the property.

Ms. Cooper asked about the abutter's concerns regarding the increase in water pooling on and adjacent to her property.

Ms. Desisto responded that she doesn't know what the abutter is referring to. She hasn't seen any water pooling in that area, in fact Ms. Desisto's landscaper has to mow the grass in that area and he has never indicated a pooling of water.

Mr. Aleva stated that they will be using all new foundations for the new buildings. Any removed soil, which can be reused, will remain and be reused on site. During construction all erosion control measures will be used to prevent soil from migrating off the property.

Regarding the sewer lines, they do not intend to scope the lines. The lines to the barn will be all new, and the lines to the house will likely have to be replaced.

Mr. Wilkos reviewed the Conservation Commission's February 9, 2022 Memo to the Board (*a copy of which will be retained in the Applicant's file*).

Mr. Aleva stated that he had been informed that the Conservation Commission would hold a meeting and that they intended to conduct a site visit. Neither he or the Applicant were notified of any Conservation Commission specific Meeting or Site Visit scheduling dates. He would have liked to participate in both the meeting and the Site Visit and he took exception to some of the comments in the memo given that he was not invited to provide input or participate in discussions with them.

At this time the Board reviewed the Design Review Approval Checklist regarding Article 11.7.C of the Ogunquit Zoning Ordinance and found all standards to have been met.

Mr. MacLeod Moved to Approve the Design Review Application for 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.

MACLEOD/BEVINS 5:0 UNANIMOUS

At this time the Board reviewed the Site Plan Approval Standards as outlined in Section 6.7 of the Ogunquit Zoning Ordinance, and found all standards to have been met.

Mr. MacLeod Moved to Approve the Site Plan Application for 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, with the condition that the Applicant use Dark Sky Lighting on the property and that such be noted on the Final Plan.

MACLEOD/MELLER 5:0 UNANIMOUS

2. PUBLIC HEARING - GUS251, LLC - 251 Main Street – Map 7 Block 8 – DBD.

Mr. Wilkos asked if there was anyone who wished to be heard regarding this application . There was no one and the Public Hearing was closed at 7:46 p.m.

2.A GUS251, LLC - 251 Main Street – Map 7 Block 8 – DBD. Site Plan Review for Change of Use from Bank to Type 3 Restaurant in a post 1930 structure.

Attorney Gregory Braun from the Law Firm of Bergen Parkinson addressed the Board as the Applicant's representative.

Attorney Braun stated that, at the last meeting, Ms. Bevins recused herself from hearing this application and he asked if she would recuse herself again. He stated that Ms. Bevins owns a competing restaurant. She also owns a unit on the same property as the Applicant's other restaurant and they have a history of not getting along. He stated that even if there were not an actual conflict of interest, there is the appearance of a conflict.

It was confirmed by the Board that at no time did Ms. Bevins recuse herself. At the last meeting the Board was polled and agreed that Ms. Bevins should continue to participate until such time as she, or the Board determines that she should be recused.

Mr. Wilkos stated that he would like to revisit the vote on the traffic study; he noted that the Ogunquit Zoning Ordinance allows the Board to do this.

Mr. Wilkos referenced Zoning Ordinance Chapter 225-6.6.C.3.21 which states, in part: "Traffic impact analysis. A traffic impact analysis, prepared by a licensed professional engineer with experience in traffic engineering, shall be submitted for any proposed project or proposed expansion of an existing project requiring 10 or more parking spaces or projected to generate more than 50 vehicle trips per day. Submission of a traffic impact analysis shall not be waived for proposed projects or expansions of existing projects requiring 30 or more parking spaces or projected to generate more than 150 vehicle trips per day... ."

Mr. Wilkos stated that the Applicant's traffic engineer submitted a Traffic Impact Analysis which clearly showed that this project will generate more than 50 vehicle trips per day. The Ordinance has a subsequent sentence which states "Submission of a traffic impact analysis shall not be waived for proposed projects or expansions of existing projects requiring 30 or more parking spaces or projected to generate more than a 150 vehicle trips per day." Some members of the Planning Board interpreted this sentence to mean that this requirement could be waived even though the previous sentence said "shall be submitted". Mr. Wilkos noted that in 2006 in the case of Bodack v. The Town of Ogunquit, this intersection was determined to be an F (Failed) Intersection. Mr. Wilkos asserted that traffic now is no less than it was in 2006. Mr. Wilkos opened the question to revisit the requirement for a full traffic study. The other option would be a peer review of the Applicant's Traffic Analysis produced by the Registered Traffic Engineer.

Attorney Braun asked for the specific Ordinance which allows the Board to revisit this decision at this point. He also noted that, at the last meeting, the Board found the application complete.

Dr. Meller responded that he voted in the affirmative for the waiver and he now would like to reconsider that vote. He suggested the Traffic Engineer may have “fudged numbers” somewhat when she claimed that the change of use would reduce the vehicle trips per day, and would not generate more than 50 new trips compared to the bank use. Dr. Meller interprets the intent of the Ordinance to mean that an absolute number of trips per day over 50 warrants a Traffic Survey.

Dr. Meller also agrees it is a failed intersection. The Traffic Engineer asserted that one of the aspects of a failed intersection is an increase in accidents. Dr. Meller suggested that there is a lack of accidents at this intersection because of the very slow movement of traffic there during the summer. This intersection didn’t fail because of the accident rate, this intersection failed because it does not allow the free flow of traffic.

Mr. Wilkos asked if Dr. Meller would prefer a Full Traffic Study or a Peer Review of the submitted Traffic Impact Analysis.

Dr. Meller responded that he has no strong opinion either way.

Mr. MacLeod stated that he made the original motion to waive the Traffic Study and he sticks by that motion for a few reasons:

The use of the word “shall” doesn’t mean the requirement can’t be waived;

The language of the Ordinance which reads “Submission of a traffic impact analysis shall not be waived for proposed projects or expansions of existing projects requiring 30 or more parking spaces or projected to generate more than 150 vehicle trips per day...” Mr. MacLeod does not believe the proposed use will generate more than 150 trips per day, and the language seems to indicate that a full traffic study may be waived.

The subject property is in the DBD which has no parking requirements and he agrees with the Applicant that most of the patrons will be pedestrians

The Traffic Engineer based some of her calculations on 40 seats and the assumption that all those patrons would be driving. The correct plan is for 30 seats and the assumption that most of the patrons will arrive on foot. He also agreed that most of the patrons of the DBD are walking.

The Traffic Engineer seems to have predicted that the restaurant traffic would be equivalent to the bank use, however Mr. MacLeod suggested it will probably be less.

These are the reasons Mr. MacLeod made his motion to grant the waiver and he stands by it.

Mr. Dufton asked to be heard.

Mr. Wilkos stated that as an alternate for this meeting he cannot “weigh in”.

Mr. Dufton asked why not, and he noted that he voted on this application last time.

Mr. Wilkos responded that at this meeting he is an alternate. It is the opinion of the Town Attorney that an alternate may not participate in discussion.

Mr. Dufton asked when this changed.

Attorney Braun reminded the Board that Mr. Dufton “weighed in” on this application at the prior meeting.

Mr. MacLeod pointed out that the Board voted to retain language in the By-Laws that an alternate could speak but not vote.

Mr. Wilkos responded that there is a memo from the Town Attorney who said that an alternate may not participate in either discussion or deliberations.

Mr. Dufton noted that the Board reviewed that memo a year ago and he was allowed to continue to participate after that review.

Mr. Wilkos stressed that the Board needs to abide by the Town Attorney’s advice.

Ms. Cooper also asserted that the Town Attorney has said that alternates should not participate in discussions or straw polls, however the Board decided that it liked the input alternates provide but they wouldn’t be allowed to vote and the Board allowed alternates to continue to participate. The attorney seems to have made a new ruling which states that the Board should not continue do that. She has not seen Town Attorney’s opinion however she was informed that it was coming and that the Board would be seeing it.

Mr. Dufton stated that he has not seen it.

Mr. Wilkos agreed to allow Mr. Dufton to be heard.

Mr. Dufton agreed that the intent of the ordinance is for total trips and that the number of vehicle trips for the new use will be less than the number of trips generated by the bank use. He agreed that a Full Traffic study would be somewhat useless and he supports Mr. MacLeod’s motion and the granted wavier. Regarding a peer review, he does not believe it would be necessary however he would like some clarification from the Traffic Engineer reading the ITE numbers.

Ms. Cooper agreed with Mr. MacLeod and Mr. Dufton. She noted that the traffic engineer was using a new method. She also pointed out that this property has an entrance and an exit, and the engineer estimates 60 trips going in and 60 trips coming out. The fact that there is parking will ease some of the traffic flow. She agreed that traffic in Town during the summer crawls along; and this property is directly across Main Street from a public parking lot. She also agreed that most of the patrons for this proposed restaurant will probably arrive on foot and will not be lingering there for any great length of time. She agreed that Main Street/Berwick Road is a failed intersection and there may be problems with cars exiting onto Berwick Road and she asked if they might be required to exit right and go up Berwick Road.

Ms. Bevins agreed that this is a failed intersection and she would like a full traffic study.

Attorney Braun again asked for Ms. Bevins to recuse herself. For the reasons noted earlier, and while he asserts there is an actual conflict here there is at the very least a perception of a conflict. For the record he restated his request that Ms. Bevins recuse herself.

Attorney Braun again asked for the specific language which gives the Board authority to go back and revoke a previous decision.

Ms. Cooper responded that the Board is allowed under State Statute and under Roberts Rules to relook at a vote at the very next meeting as long as the request is made by a Board Member who was in the majority of the original vote.

Attorney Braun pointed out that Mr. Wilkos was not in the majority of the original vote so he does not have the authority bring up the question tonight.

Mr. Wilkos asked if there was a Board Member who voted in the affirmative who would like to bring up the question.

Dr. Meller responded that he would. He suggested that if the Applicant would use the parking for staff only and would waive the ability to use the parking for patron parking, this issue might go away.

Attorney Braun reiterated that there will be no new traffic pattern with the proposed use, and the traffic impact will be less than the bank use. He stated that it is a very small parking lot with 8 parking spaces and one dedicated for handicapped parking. He also refused the suggestion that the Applicant give up the right to use the parking for patrons. He did agree that some of the parking spaces will be used by staff and that this will help reduce traffic into and out of this property.

Ms. Cooper added that this restaurant will require space for a delivery of baked goods from their other restaurant and for their staff parking.

Mr. Wilkos suggested that a peer review of the Traffic Analysis would satisfy the Board's concerns. He stated that there are two choices: a full traffic study or a peer review of the Applicant's Traffic Analysis.

Ms. Cooper suggested a peer review might help explain and confirm the Traffic Engineer's use of the new process/method of review.

Mr. Wilkos asked the Board members what they would like to do.

Mr. MacLeod stood by the granted waiver but would not disagree with having a peer review even though he didn't believe it would tell them anything they don't already know.

Dr. Meller was experiencing technical difficulties participating via ZOOM however he stated that he wanted a peer review.

Ms. Bevins restated that she wanted a full traffic study.

Attorney Braun stated that this application involves a coffee shop with baked goods made off site and brought in for sale in a vacant building. There is no plan to change the exterior of the building. There are no documented nuisances or noise, and the intended flow of traffic for this location will be less than the previous use.

Attorney Braun noted that the revising of this vote was unexpected. He did not know if anyone else expected to revisit the vote, however he did not. He again outlined his reasons for asking Ms. Bevins to be recused and again asked for her recusal.

Mr. Wilkos reiterated that the Board felt Ms. Bevins could make a fair and impartial decision.

Ms. Cooper stated that based on the Ordinance exempting parking in the DBD she agreed with Mr. MacLeod that a full traffic study could be waived and she does not see that a peer review would give them any new information.

Dr. Meller was still having technical difficulties and he agreed to go to Town Hall and participate in person.

The Board took a 10 minute break while it waited for Dr. Meller to travel to Town Hall.

Dr. Meller stated that he would prefer a full traffic study but he would be satisfied with a peer review of the submitted traffic analysis.

It was suggested that a full traffic study couldn't be done until summer, however it was also noted that in the past they have been done using traffic manuals.

Mr. Wilkos asked the Board members if they prefer: a full traffic study, peer review, or stand by the waiver as granted?

Dr. Meller – satisfied with a peer review;

Ms. Cooper – stands with the waiver granted at the previous meeting;

Ms. Bevins – full traffic study;

Mr. MacLeod - stands with the waiver granted at the previous meeting;

Mr. Wilkos – full traffic study.

Attorney Braun noted that this is a requirement which is routinely waived in the DBD, and the waiver was already granted at the last meeting. He confirmed that he is not prepared to abandon the parking on the property and he suggested it is improper procedure for the Board to ask them to do so at this point.

Attorney Braun pointed out that the traffic study is a component of the Application's completeness and the waiver, which was granted at the completeness hearing, allowed the application to be found complete. If the Board were to now revoke that waiver it puts the application back into an incomplete status. He asked for clarification on what the Board intends to vote on.

Mr. Wilkos summarized that the Board did find the Application complete at the last meeting and they are now discussing revisiting the waiver for a traffic study.

Attorney Braun responded that the application was only deemed to be complete because of the waiver of the traffic study requirement.

Mr. Wilkos agreed.

Attorney Braun again asked for the citation which gives the Board the authority to revoke a granted waiver at this point.

Mr. Wilkos responded that the Board is allowed to revisit a decision or a vote at the following meeting and he agreed to locate the specific reference.

Attorney Braun expressed his consternation at the Board's considering revoking a granted waiver without citing where that authority comes from, similar to the references regarding the Town Attorney's opinion regarding alternates participation where apparently most of the Board members have not seen that opinion.

Mr. Wilkos asked if Attorney Braun wanted to table the application and speak with his client.

Attorney Braun responded that he would need to know the effect of tabling, if the application is tabled what will the application's standing be upon taking it off the table?

Mr. Wilkos responded that he would need to confer with the Town Attorney. The application could move forward if there were a vote from the Board to: withdraw the waiver and require a traffic study, require a peer review, or uphold the waiver. He noted that if the application is tabled the Board will not be able to revisit the traffic study waiver reconsideration. Such a reconsideration needs to take place at the meeting following the meeting where the waiver was granted.

Mr. MacLeod Moved to revoke the waiver granted on February 14, 2022 for 6.6.C.3.U Traffic Impact Analysis prepared by a registered professional engineer for GUS251, LLC - 251 Main Street – Map 7 Block 8 – DBD. Site Plan Review for Change of Use from Bank to Type 3 Restaurant in a post 1930 structure.
MACLEOD/

Attorney Braun reiterated that the effect of this motion is that the Board will be withdrawing its determination that the application is complete, because without the waiver the application reverts back to an incomplete status. The Board will be taking a smaller vote and using it to undo a unanimous vote on a larger umbrella issue. He suggested the Board cannot do this. He asked where this would lead.

Mr. Wilkos responded that the Board would need to vote on the motion to revoke the waiver and then ask the Town Attorney if this action also revokes the decision to find the application complete.

Attorney Braun asked the Board to also ask the Town Attorney for her opinion regarding Ms. Bevins continuing on in discussions for this application, given his repeated requests that she be recused; and if the Town Attorney agrees there is an actual, or perceived, conflict.

Mr. MacLeod restated his motion and Mr. Wilkos read the specific language for Site Plan Review Submission item 6.6.C.3.U:

Mr. MacLeod Moved to revoke the waiver granted on February 14, 2022 for 6.6.C.3.U Traffic Impact Analysis prepared by a registered professional engineer for GUS251, LLC - 251 Main

Street – Map 7 Block 8 – DBD. Site Plan Review for Change of Use from Bank to Type 3 Restaurant in a post 1930 structure.
MACLEOD/MELLER

Mr. Dufton asked if he could speak.

Mr. Wilkos responded that he is an alternate at this meeting and cannot participate in the deliberation.

Mr. Dufton responded that this is based on a memo no one has seen.

Mr. Wilkos responded that alternates have never participated in deliberations.

Mr. Wilkos called for the vote:

Mr. MacLeod – NO
Ms. Bevins – YES

Attorney Braun pointed out that Ms. Bevins did not participate in the original vote.

Mr. Wilkos asked him to not interrupt while the Board is voting and stated that if there is a problem with the vote Attorney Braun may bring it up after the vote.

Ms. Cooper – NO
Dr. Meller – YES
Mr. Wilkos -YES

**Mr. MacLeod Moved to revoke the waiver granted on February 14, 2022 for 6.6.C.3.U Traffic Impact Analysis prepared by a registered professional engineer for GUS251, LLC - 251 Main Street – Map 7 Block 8 – DBD. Site Plan Review for Change of Use from Bank to Type 3 Restaurant in a post 1930 structure.
MACLEOD/MELLER 3:2 (Mr. MacLeod and Ms. Cooper Dissenting)**

Mr. Wilkos summarized that the Board will now need the Town Attorney’s opinion on whether or not the application is no longer complete.

**Mr. MacLeod Moved to Table the Application for GUS251, LLC - 251 Main Street – Map 7 Block 8 – DBD. Site Plan Review for Change of Use from Bank to Type 3 Restaurant in a post 1930 structure pending input from the Town Attorney regarding the completeness status of the application
MACLEOD/BEVINS 5:0 UNANIMOUS**

Attorney Braun asked if this application would be placed on the Board’s next meeting agenda.

Mr. Wilkos responded that it will depend on when the Board receives a response from the Town Attorney.

3. PUBLIC HEARING - RANEY & MELANIE TROMBLEE / OGT BEANERY – 47 Shore Road Unit 1 – Map 7 Block 113-1 – GBD1.

Mr. Wilkos asked if there was anyone in the public who wished to be heard regarding this application. There was no one and the Public Hearing was closed at 9:01 p.m.

3.A RANEY & MELANIE TROMBLEE / OGT BEANERY – 47 Shore Road Unit 1 – Map 7 Block 113-1 – GBD1. Site Plan Review for a pre-1930 structure. Application for Change of Use from retail to Type 3 Restaurant.

None of the Board members had any questions for the Applicants.

At this time the Board reviewed the Site Plan Approval Standards as outlined in Section 6.7 of the Ogunquit Zoning Ordinance, and found all standards to have been met.

Mr. MacLeod Moved to Approve the Site Plan Application for RANEY & MELANIE TROMBLEE / OGT BEANERY – 47 Shore Road Unit 1 – Map 7 Block 113-1 – GBD1. Site Plan Review for a pre-1930 structure. Application for Change of Use from retail to Type 3 Restaurant.

MACLEOD/MELLER 5:0 UNANIMOUS

4. PUBLIC HEARING - RANEY & MELANIE TROMBLEE / BIG DADDY'S ICE CREAM – 47 Shore Road Unit 1 – Map 7 Block 113-1 – GBD1.

Mr. Wilkos asked if there was anyone in the public who wished to be heard regarding this application. Jacob Kirsch from Brix & Brine Restaurant informed the Board that there is no trash storage on this property and he thinks their trash plan could be better, however he believes they can work it out and will be fine.

Mr. Tromblee responded that the space all the way around the building is his space according to the survey and there will be plenty of room however he will remove the trash daily and there will be no build up of trash.

Mr. Tromblee also noted that, according to the survey, the location behind his building where Mr. Kirsch has umbrella tables for Brix & Brine belongs to the Tromblee's.

There was no one else who wished to be heard and the Public Hearing was closed at 9:21 p.m.

4.A RANEY & MELANIE TROMBLEE / BIG DADDY'S ICE CREAM – 47 Shore Road Unit 1 – Map 7 Block 113-1 – GBD1. Site Plan Review for a pre-1930 structure. Application for Change of Use from retail to Type 3 Restaurant.

Ms. Cooper asked about the weight of the freezers for the ice cream and if the structural load for this building will support that weight and if they have had a structural engineer look at it.

Mr. Tromblee responded that they have not however the Fire Department has agreed to work with them regarding life safety and he will abide with whatever the Fire Department recommends or requires.

Ms. Cooper asked if there will be any food prepared on site.

Mr. Tromblee responded that there will not.

Ms. Cooper asked if the 2nd floor will only be used for storage and if there will be freezers up there.

Mr. Tromblee responded that there will be no freezers, only dry storage.

Mr. MacLeod expressed concern that the proposed business may meet the criteria for a Formula Restaurant, which is not permitted in Ogunquit.

The Board agreed that Ogunquit encourages local business ownership and the intent of that specific Ordinance restriction is to prohibit large franchise chain restaurants; not to limit or prohibit “mom and pop” small family owned restaurants. It was also agreed that this prohibition does not apply to this restaurant.

It was noted that a recent Zoning Board of Appeals decision for Mornings in Paris, another Type 3 Restaurant, set the standard for small family owned restaurants to not be considered to be formula or franchise restaurants.

It was suggested the Applicants might change the name of the business which would solve the question.

Mr. Tromblee responded that, other than the name, there will be no similar standards between this new ice cream shop and the two they already own (one in Ogunquit and one in Wells).

Mr. Tromblee stated that they have a dumpster at their other business, and one at their house. He will pick up and remove trash a few times a day as needed. Trash will not be an issue.

**Mr. MacLeod Moved to Approve the Site Plan Application for RANEY & MELANIE TROMBLEE / BIG DADDY’S ICE CREAM – 47 Shore Road Unit 1 – Map 7 Block 113-1 – GBD1. Site Plan Review for a pre-1930 structure. Application for Change of Use from retail to Type 3 Restaurant.
MACLEOD/MELLER 5:0 UNANIMOUS**

Mr. Wilkos noted that the Board would have a hard stop to the meeting at 10:00 and no new applications would be reviewed after 9:30.

G. NEW BUSINESS –

- 1. DUNELAWN CONDO ASSOCIATION – River Road/Main Street/Hoyts Lane - Map 7 Block 79 – SLR/R/GB1. Design Review and Site Plan Review for replacement of retaining wall and fence, parking lot resurfacing, constructing a new catch basin, and upgrading existing drainage.**

This application was rescheduled to the March 14, 2022 Meeting.

- 2. MAX CLAYTON / LEAVITT THEATER – 259 Main Street – Map 7 Block 9 – DBD/SP. Site Plan Review for a Change/Expansion of Use for a pre-1930 structure. Application to add outdoor seating and add a new ADA Bathroom.**

This application was rescheduled to the March 14, 2022 Meeting.

H. CODE ENFORCEMENT OFFICER BUSINESS –

1. PROPOSED AMENDMENT TO THE MUNICIPAL CODES CHAPTER 225 ZONING CODE VIOLATIONS A CITATION SYSTEM.

Mr. McOsker informed the Board that his office will first give a verbal warning to violators followed by a letter or two, and the fines and citation system will be used only in those instances where violations are unable to be resolved in other ways and in a reasonable amount of time. He also noted that this amendment has been in the works for some time.

A Public Hearing was scheduled for 6:00 p.m. on March 28, 2022.

I. OTHER BUSINESS –

1. DISCUSSION REGARDING TINY HOMES PROPOSED ORDINANCE.

The Board scheduled a Workshop for 5:00 p.m. on March 14, 2022.

A Public Hearing was scheduled for 6:00 p.m. on March 28, 2022.

J. ADJOURNMENT –

Mr. MacLeod Moved to Adjourn at 10:20 p.m.

Maryann Stacy

Maryann Stacy
Town of Ogunquit
Planning Board Recording Secretary

Accepted on March 14, 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.*