



Town of Ogunquit
Planning Board
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**OGUNQUIT PLANNING BOARD
REGULAR BUSINESS MEETING
MINUTES
MARCH 14, 2022**

A. ROLL CALL – 6:00 p.m.

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

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

B. PLEDGE OF ALLEGIANCE –

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

D. MINUTES – February 28, 2022 Regular Business Meeting.

**Mr. MacLeod Moved to Accept the Minutes of the February 28, 2022 Meeting as Amended.
MACLEOD/MELLER 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 who wished to be heard on any matter not on this meeting's agenda. There was no one.

F. UNFINISHED BUSINESS –

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

Mr. Wilkos opened the Public Hearing at 6:04 p.m.

Attorney Braun addressed the Board as the Applicant's representative. He again asked, for the record, for Ms. Bevins to recuse herself based upon an actual and/or perceived conflict of interest.

Mr. Wilkos asked if Ms. Bevins wanted to respond. She did not.

Peter Kahn (3 Tern Street) gave a summary regarding Motions to Reconsider and he asked what new information was brought forth upon which to base a reconsideration to waive the Traffic Study.

Barbara Ferraro (Ocean Heights) stated that she has seen inconsistencies in the way the Board has reviewed applications and the things applicants have been required to provide. She compared this application with past applications: The Wine Cellar on Shore Road, Nikanos Restaurant on Main Street, and The Patio Restaurant on Main Street all of which were granted waivers from the Traffic Study Requirement. Ms. Ferraro suggested there has been an unfair and inequitable application of the granting of waivers. She also noted that this Applicant has asked several times for Ms. Bevins to recuse herself. Ms. Ferraro outlined Ms. Bevins' conflicts with this Applicant.

Mr. Wilkos reviewed an e-mail from T.A. Lynch dated March 10, 2022.

There were no further comments and the Public Hearing was closed at 6:16 p.m.

1.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 Braun noted that the e-mail Mr. Wilkos read into the record was submitted to the Town Clerk within the last week, it failed to indicate the sender's full name, or a full residential address, nor was it signed either electronically or by hand. Attorney Braun asked if it is the Board's standard procedure to read all written submissions into the record.

Mr. Wilkos responded that normally they read written submissions into the record.

Mr. Wilkos stated that the Town Attorney has advised that the Planning Board By-Laws indicate the Board follows Roberts Rules of Order which state that a vote may only be reconsidered on the same day as the vote sought to be reconsidered was taken. The only exception to this rule is in the case of a session such as a lengthy convention ... in which case a motion for reconsideration may be taken on the date a motion was made or on the next succeeding day on which a meeting is held.

Mr. Wilkos referenced Roberts Rules of Order 12 ed, c. 2020 which states if a motion to reconsider which involves a main motion cannot be taken up when it is made then it can be called up and acted upon whenever no question is pending and no other members have the floor. The motion to reconsider may be called up at any meeting of the same session in which it was made. If the next regular business session will be held within a quarterly time interval it may also be called upon at meeting within that next session or any intervening special meeting called for that purpose.

Mr. Wilkos offered that according to the most recent edition of Roberts Rules of Order that a Motion to Reconsider may be made at the next meeting.

Attorney Braun asked for confirmation that Mr. Wilkos is saying that this is in contrast to the opinion provided to the Board by the Town Attorney. That the Town Attorney has indicated one set of protocol and procedures and the Chairman is quoting another.

Mr. Wilkos responded that this is correct and he asked for Mr. Feldman's opinion.

Mr. Feldman stated that a voting member who voted in the affirmative has the right to make a motion to reconsider an action no later than the very next public meeting of which the action was taken.

Mr. Wilkos suggested the Board needs further discussion with the Town Attorney regarding an interpretation of Roberts Rules of Order and whether or not a Motion to Reconsider may be made at a subsequent meeting.

Mr. McOsker noted that the Board has already received the Town Attorney's opinion and he asked what more the Board will get by asking for her opinion again.

Mr. Wilkos responded that he wants further clarification on what he read from Robert Rules of Order 12th Edition.

Attorney Braun reiterated that every Town Staff member who was asked to review this application gave it his/her blessing: Fire Chief, Sewer, and Water Departments, Police Chief, Mr. Feldman, and the Applicant's Traffic Engineer. The Town Attorney has recommended a certain course of action and Attorney Braun again asked the Board to vote to approve this application.

Jerry DeHart, the Applicant's representative stated that the Applicant was brought back before the Board tonight, the Board has held two Public Hearings, and this process has been handled in extremely poor judgement.

Mr. Wilkos again stated that he wanted further clarification from the Town Attorney as to whether the vote to reconsider was valid or not; and he asked the Board Members for their input:

Mr. MacLeod – The vote to reconsider was improper. He would vote against revoking and he stands by the original granting of the original waiver. As this application now stands it is not complete because the waiver was revoked. The Town Attorney's response was unclear and unresponsive and he would like to be sure that she fully understands the current situation and gives them clearer input.

Ms. Bevins – agreed with Mr. MacLeod.

Attorney Braun stated that he did not consent to a tabling of the application and he again asked that Ms. Bevins recuse herself.

Ms. Cooper – felt that the revocation process was incorrect and the Board should move forward with the Application.

Dr. Meller – wanted further clarification from the Town Attorney. If she advises that the vote to revoke the waiver was done improperly he will abide by that recommendation.

Mr. Wilkos - wanted further clarification from the Town Attorney.

Attorney Braun responded that the Town Attorney has already given her opinion regarding the vote.

**Ms. Bevins Moved to table the Application pending further clarification from the Town Attorney regarding whether or not the vote to reconsider was done properly.
BEVINS/MELLER 3:2 (Mr. MacLeod, and Ms. Cooper Dissenting)**

Attorney Braun restated that the Applicant does not consent to the tabling. He asked when this application will come back before the Board.

Mr. Wilkos responded that it will come back on March 28th.

**2. PUBLIC HEARING - ROBERT & EILEEN MACKIN REVOCABLE TRUST –
171 Berwick Road - Map 16 Block 116 – RD/RRD1.**

Mr. Wilkos opened the Public Hearing at 6:40 p.m.

Mr. and Mrs. Mackin summarized the proposed project to relocate the zoning boundary line which bisects their property placing it in two zoning districts (Residential and Rural Residential 1). The end result will be that the entire lot will be located in the Residential Zone.

Richard Rendon (52 High Ridge Lane) asked how the proposed rezoning will effect his property. He stressed his desire to preserve his privacy and the buffer between the two properties.

Mr. McOsker responded that there will be no tax repercussions and the setbacks would remain in place and must be followed. He noted that the Mackins have not stated what they plan to do with the property if the zoning line is moved, there is potential to construct a 2nd dwelling unit on the property.

Jaye Anderton (182 Berwick Road) explained that she owns the small, nonconforming, unbuildable parcel in front of the Mackin's lot. Her attorney has informed her that because she owns the frontage in that portion of Berwick Road that nothing may be constructed behind her lot. She pointed out that the Mackins have the option of having frontage on Woodland Hills.

Robert Blackburn (174 Berwick Road) expressed his support for the Mackin's application.

The Public Hearing was closed at 6:55 p.m.

**2.A ROBERT & EILEEN MACKIN REVOCABLE TRUST – 171 Berwick Road - Map
16 Block 116 – RD/RRD1 – Application to Amend Town of Ogunquit Zoning
Ordinance and Official Town of Ogunquit Zoning Map. Request for relocation of
existing Zoning Boundary Line.**

**Mr. MacLeod Moved to send the Mackin's request to relocate an existing boundary line to
the Select Board for presentation to the Voters on the June 2022 Warrant.
MACLEOD/COOPER 5:0 UNANIMOUS**

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.~~
TABLED TO MARCH 28, 2022 AT THE APPLICANT'S REQUEST.
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 (Change of Use from Type 1 Restaurant to Type 2 Restaurant).**

Max Clayton gave a brief summary of his proposal to add outdoor dining similar to what he was allowed to do during the last two summers under Covid.

Mr. Feldman reviewed his February 22, 2022 Memo to the Board.

Mr. Wilkos reviewed Town Staff Memos to the Board.

Mr. Feldman confirmed that the proposal is to locate outdoor tables completely on the Applicant's private property.

Mr. Clayton confirmed that he met with the Ogunquit Historic Preservation Commission which gave the proposal their stamp of approval.

The Board reviewed the Site Plan Review Submission Checklist and confirmed all required submissions were either provided by the Applicant or deemed to be not applicable.

**Mr. MacLeod Moved to find the application complete for 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 (Change of Use from Type 1 Restaurant to Type 2 Restaurant).
MACLEOD/ BEVINS 5:0 UNANIMOUS**

The Board scheduled a Public Hearing to take place on March 28, 2022.

The Board Scheduled a Site Visit to take place on March 28, 2022.

3. ~~SUNSET RIDGE SUBDIVISION / MAGGIE BERTRAM and RACHEL KRAUSMAN – 37, 40, and 41 Sunset Ridge – Map 18 Block 3: 2, 3, and 4 RR1. Application to Amend Previously Approved Subdivision Plan to remove Condition of Approval for sprinkling of new single family dwellings.~~
APPLICATION WITHDRAWN AT THE APPLICANT'S REQUEST.

H. CODE ENFORCEMENT OFFICER BUSINESS –

I. OTHER BUSINESS –

1. Discussion of Tiny Homes Workshop held earlier this evening (Public Hearing for this Ordinance Amendment has been scheduled to take place on March 28, 2022 at 6:00 p.m.)

The Board reviewed a recent submission by Mr. MacLeod and agreed Mr. Feldman would draft ordinance language prior to the Public Hearing.

The Board confirmed that a Public Hearing would take place on March 28, 2022.

J. ADJOURNMENT –

**Mr. MacLeod Moved to Adjourn at 7:25 p.m.
MACLEOD/MELLER 5:0 UNANIMOUS**

Maryann Stacy

Maryann Stacy

Town of Ogunquit

Planning Board Recording Secretary

Accepted March 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.*