



Town of Ogunquit
Planning Board
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**OGUNQUIT PLANNING BOARD
REGULAR BUSINESS MEETING
MINUTES
AUGUST 23, 2021
DUNAWAY CENTER AUDITORIUM
and
VIA ZOOM**

A. ROLL CALL – 6:00 p.m.

Members Present via ZOOM: Steve Wilkos (Chair)
Mark MacLeod (Vice Chair)
Elaine Cooper
Steven Meller

Members Present in person: Jackie Bevins
Mark Dufton (1st Alternate)

Also Present: Scott Heyland, Code Enforcement Officer

B. PLEDGE OF ALLEGIANCE –

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

D. MINUTES – July 12, 2021 and August 12, 2021 Meetings.

**Dr. Meller Moved to Accept the Minutes of the July 12, 2021 Meeting as Amended.
MELLER/MACLEOD 5:0 UNANIMOUS**

**Dr. Meller Moved to Accept the Minutes of the August 12, 2021 Meeting as Submitted.
MELLER/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 evening's agenda. There was no one.

F. UNFINISHED BUSINESS –

**1. Previously Approved Application Remanded back to the Ogunquit Planning Board by the York County Superior Court for a Public Hearing:
COSO ENTERPRISES LLC / DWAIN UNDERWOOD / BLACK BOAR INN – 277 Main Street – Map 7 Block 13-1 – GBD1 – Application to Amend a Previously Approved Site Plan. Request to add a Type 1 Restaurant, as an accessory use to an existing Type 3 Transient Accommodation – Inn; Request for parking waivers.**

Mr. Wilkos stated that at the last meeting for this application the Board closed the Public Hearing. Because no notice was posted that there would be a Public Hearing tonight the Board would not be taking comments from the public. He asked if the Applicant or his representative would like to be heard.

Tim Stein (13 Black Boar Drive Units 1 & 3 A&B) addressed the Board as the Applicant's representative. He noted that most of the material before the Board is from the original 2019 application. The only difference between 2019 and today is the newly submitted parking waiver request.

The purpose of the waiver provision is to allow for reasonable downtown activity; and this application fits perfectly with the goal of that provision. He argued that Mr. Underwood's parking waiver request meets the Town Ordinance standards for approval.

The Black Boar Inn is within 500 feet of a public parking lot (the Upper and Lower Lots – Map 7 Block 67). There is public transportation, in the form of the Trolleys, 185 feet from the restaurant.

In addition the waiver request meets the requirement for appropriate parking and loading space based on pedestrian crosswalks and sidewalks. He argued that Ogunquit is a walking community; and the Applicant does not advertise onsite parking for the restaurant because most of the patrons will arrive by trolley or on foot.

Mr. Stein argued that the applicant meets the grounds for granting the parking waiver.

Regarding parking spaces available to Mr. Underwood. He (Mr. Underwood) controls Units 1, 3, and 3B which have 14 parking spaces. If you subtract 2 parking spaces for Unit 3A - and 2 parking spaces for Unit 3B you are left with 10 parking spaces. Subtract 8 parking spaces for the guests of the inn, and you are left with 2 parking spaces. In addition, Mr. Stein noted that the Town Attorney has made it clear that the Board may not revisit the original 2005 Site Plan.

Mr. Stein noted that the parking spaces lease has been amended to be indefinitely renewable. This gives Mr. Underwood indefinite control of the parking spaces from 13 Black Board Drive Units 1 and 2.

Mr. Underwood stated that he was satisfied with Mr. Stein's comments and had nothing to add.

Attorney Leah Rachin (Drummond Woodsum) asked to address the Board on behalf of the abutters, who are the Plaintiffs in the Court Case that brought the application back before the Planning Board.

Mr. Wilkos responded that this meeting is not a Public Hearing. It was not posted as a Public Hearing, no abutter notices were mailed, and the Board would not take comments from the public.

Attorney Rachin argued that she represents the abutters, who are present and willing to waive the abutter notification. She added that the Board had scheduled a Site Visit for July 26, 2021 which was cancelled at the Applicant's request. She also argued that the Applicant has recently amended his application by applying for a parking waiver; and her clients have not had the opportunity to respond to this new information.

Mr. Wilkos responded that there may be other abutters who might have wished to be heard but did not attend because this meeting was not posted as a Public Hearing. He reminded Attorney Rachin that improper abutter notification is the very reason the Court remanded this application back to the Planning Board. This meeting was not posted as a Public Hearing, no abutter notices were mailed informing all the abutters that they might be heard tonight; and the Board is not going to take public comment.

Mr. Wilkos added that if the Board chooses to do so it may table this application and hold another Public Hearing which will be properly noticed for the abutters and other members of the public.

Ms. Cooper noted that this application was remanded back to the Planning Board because the abutters were not given the opportunity to be heard during the original application in 2019. She argued that the abutters need to be given the opportunity to speak in response to the new issue, i.e. the parking waiver request.

Ms. Cooper also argued that the Board is only supposed to look at the original application which did not include a parking waiver request. The Board is supposed to be looking at what came before it in 2019 and that was not a waiver request. She believes the Board should not be looking at the waiver request which was not part of the 2019 application. That was not part of what the Court remanded back to the Board.

Ms. Cooper reviewed an e-mail between Code Officer Scott Heyland and Town Attorney Mary Costigan dated July 26, 2021 (*a copy of which will be archived in the Applicant's file in the Ogunquit Land Use Office*).

Other Board members agreed that the addition of the parking waiver request changes the original application as it was presented to the Board in 2019.

Mr. Wilkos asked Mr. Heyland to check with the Town Attorney and ask her if the original 2019 application may be changed with the addition of the parking waiver request; and what the consequences of that change will be.

Mr. Heyland agreed to do so. He added that it is his recommendation that, if the Board wishes to proceed with the parking waiver it should allow the public to be heard. The Board may table this application and schedule a Public Hearing which can be properly noticed. He reminded everyone that this case was remanded back to the Planning Board because the original 2019 Public Hearing was improperly noticed; and he does not want to see that happen again.

Mr. Stein responded to the Board's discussion by stating that it is his opinion that this application can be approved with, or without, the parking waiver. He offered to withdraw the parking waiver request and allow the application to be heard in its original form.

Ms. Cooper noted that there has been a lot of confusing information presented. She interprets the Court's instructions that the Board should only look at what is in front of it. She believes the Board should be looking at the parking, specifically the parking in Unit 3A and whether someone can lease away parking spaces which are required for them to meet the Zoning Ordinance. She also pointed out that there is some confusion as to the number of rental units. The Applicant talks about six rental units and the Site Plan indicates there are seven.

Mr. MacLeod pointed out that the Planning Board is not involved in the assigned parking of the individual condominium units. The Board has the Site Plan from 2005 and a lease for parking spaces from Units 3A and B which states that they are leasing parking spaces 11 and 12 to the Black Boar Inn with an indefinitely renewable lease. This meets Zoning Ordinance Standards.

Mr. Stein explained that the Black Boar Inn will advertise through social media and on their website that there is no onsite parking available for the restaurant.

The Board agreed to proceed without the parking waiver request.

Mr. Wilkos summarized that the Board held a Public Hearing for this application on July 12, 2021. The public, abutters, and the abutters' attorney were all given the opportunity to be heard. After they spoke the Public Hearing was closed. He noted that with the withdrawal of the parking waiver requests there has been no new information which would warrant additional public input. He noted that the parking space lease has been amended to make it indefinite so that it meets the terms of the Ordinance.

Mr. Wilkos reminded everyone that this application was remanded back to the Planning Board because abutters were not properly notified of the 2019 Public Hearing. On July 12, 2021 this Board held another Public Hearing and all abutters, and the public were properly notified and given the opportunity to be heard.

Mr. MacLeod Moved to proceed with the Findings of Fact for COSO ENTERPRISES LLC / DWAIN UNDERWOOD / BLACK BOAR INN – 277 Main Street – Map 7 Block 13-1 – GBD1 – Application to Amend a Previously Approved Site Plan. Request to add a Type 1 Restaurant, as an accessory use to an existing Type 3 Transient Accommodation – Inn. MACLEOD/BEVINS 4:1 (Ms. Cooper Dissenting)

At this time the Board reviewed the Findings of Fact Standards as outlined in Section 6.7 of the Ogunquit Zoning Ordinance. *(A copy of the Findings of Fact will be archived in the Applicant's Planning Board File in the Ogunquit Land Use Office.)*

Mr. MacLeod Moved to Approve the Application for COSO ENTERPRISES LLC / DWAIN UNDERWOOD / BLACK BOAR INN – 277 Main Street – Map 7 Block 13-1 – GBD1 – Application to Amend a Previously Approved Site Plan. Request to add a Type 1 Restaurant, as an accessory use to an existing Type 3 Transient Accommodation – Inn. MACLEOD/BEVINS 4:1 (Ms. Cooper Dissenting)

G. NEW BUSINESS –

1. TRELLIS TOO LLC / GLEN PORTER & LAURENCE PLOTKIN – 36 Beachmere Place – Map 6 Block 88-7 – LBD – Design Review Application to construct an 8’x12’ second floor deck on a pre-1930 structure.

Mr. Plotkin and Mr. Porter summarized that they are looking to construct a new deck off of their two bedroom owner’s apartment at the Blue Shutters Inn.

Mr. Wilkos reviewed the Ogunquit Historic Preservation Commission’s July 14, 2021 Memo to the Board (*a copy of this memo will be archived in the Applicant’s Planning Board File in the Ogunquit Land Use Office.*)

Mr. Dufton asked if the primary entrance to the Inn is below the deck; and if the deck will be weather proofed.

Mr. Porter responded that the deck will not be weather proofed and the entrance to the Inn’s registration office is below the deck.

Mr. MacLeod Moved to Find the Application Complete for TRELLIS TOO LLC / GLEN PORTER & LAURENCE PLOTKIN – 36 Beachmere Place – Map 6 Block 88-7 – LBD – Design Review Application to construct an 8’x12’ second floor deck on a pre-1930 structure.

MACLEOD/BEVINS 5:0 UNANIMOUS

Mr. MacLeod asked about another deck shown on the plans.

Mr. Porter responded that this deck has been removed and replaced with a brick patio.

The Board determined that no Site Visit or Public Hearing would be needed.

At this time the Board reviewed the Design Review Standards as outlined in Section 11.7.C of the Ogunquit Zoning Ordinance. (*A copy the Board’s Design Review Approval Worksheet will be archived in the Applicant’s Planning Board File in the Ogunquit Land Use Office.*)

Mr. MacLeod Moved to Approve the Application for TRELLIS TOO LLC / GLEN PORTER & LAURENCE PLOTKIN – 36 Beachmere Place – Map 6 Block 88-7 – LBD – Design Review Application to construct an 8’x12’ second floor deck on a pre-1930 structure.

MACLEOD/BEVINS 5:0 UNANIMOUS

2. OLD VILLAGE INN REAL ESTATE HOLDINGS LLC – 252 Main Street – Map 7 Block 69 – DBD – Application to amend a previously approved Site Plan (Approved on October 16, 2019). Request to amend originally approved Vegetation Plan.

Mr. Heyland summarized that two years ago the Applicant received Planning Board approval for The Patio Restaurant. Part of that approval included a landscape / vegetative plan for the downhill slope abutting the Town’s lower parking lot.

Due to on site conditions the Applicant had to change some of the originally approved vegetation plan. Covid delayed planting which set him back a whole season, some of the approved plantings were to be located under the building, and a portion of the plan included property which this applicant does not own and has no control over. Also some of the approved plant species were not viable in this location. Because of these changes the Applicant is back before the Board so that the approved plan will match what is actually on the ground.

Tom Bussoni, the managing partner for Old Village Inn Real Estate Holding LLC addressed the Board. He summarized that the 2019 Vegetation Plan did not work and his new landscaper advised that the submitted plan had inaccuracies. The newly proposed plan is an attempt to meet the original intentions of the Board's Approval. One objective is to soften the steel beams as seen from the Lower Parking Lot, another objective is to stabilize the embankment and control rainwater runoff. This has been done by the planting of trees and bushes.

Ms. Cooper agreed that the trees will handle the rainwater runoff better than the originally proposed plants. She also pointed out that some of the plants the Applicant selected are not totally native to Maine. She suggested other native vegetation considerations.

Mr. MacLeod noted that Ogunquit River test monitoring has identified the River Street outlet as a source of high contamination; and everything that can be done to control runoff is important.

Mr. Bussoni agreed and noted that after the new plantings went in there has been no runoff from that hill.

The Board agreed that no Site Visit or Public Hearing would be needed.

It was noted that the original vegetation plan is on file in the Ogunquit Land Use Office.

**Mr. MacLeod Moved to Approve the Application for OLD VILLAGE INN REAL ESTATE HOLDINGS LLC – 252 Main Street – Map 7 Block 69 – DBD – Application to amend a previously approved Site Plan (Approved on October 16, 2019). Request to amend originally approved Vegetation Plan.
MACLEOD/BEVINS 5:0 UNANIMOUS**

H. CODE ENFORCEMENT OFFICER BUSINESS – None

I. OTHER BUSINESS –

1. Review Correspondence from Attorney John Bannon from Murray Plumb & Murray dated July 13, 2021 regarding proposed amendment to the Ogunquit Zoning Map.

Attorney John Bannon reviewed his July 13, 2021 letter to the Planning Board and the attachments which were submitted with it (*a copy of Attorney Bannon's submission will be archived in the Ogunquit Land Use Office*).

The Board considered that this issue would be better reviewed by the Comprehensive Plan Committee. It was also noted that changes to the Zoning Boundary lines in this neighborhood may trigger changes all over Town; there might be a cascade effect.

Mr. MacLeod suggested that the developers of the subject properties should have been more aware that they were creating lots which were bisected by two zones. Changes to the Woodland Hills area will open changes for rezoning all over Ogunquit. He suggested the correct approach is to consider town wide changes and not focus on one property or neighborhood.

It was also noted that any changes to the Zoning Boundary Lines would have to be approved by the Voters.

The Board agreed to hold a workshop to discuss the suggestion of moving zoning boundary lines. This will also allow the public to be heard.

A Workshop was scheduled to take place on October 25, 2021 at 4:00 p.m.

2. Planning Board / Conservation Commission / Sustainability Committee Workshop Regarding the Ogunquit River Watershed.

The Planning Board scheduled a joint workshop with the Conservation Commission and the Sustainability Committee. Said workshop to take place on September 20, 2012 at 6:00 p.m. Ms. Cooper agreed to act as liaison to the Conservation Commission and Sustainability Committee; and report back to the Planning Board after she confirms the workshop date and time with them.

3. Prohibition of amplified music outdoors.

Ms. Bevins read an article which was published in the newspaper 38 years ago which noted the prohibition of amplified music out of doors.

J. ADJOURNMENT –

**Mr. MacLeod Moved to Adjourn at 8:57 p.m.
MACLEOD/MELLER 5:0 UNANIMOUS**

Respectfully Submitted

Maryann Stacy

Maryann Stacy

Town of Ogunquit

Planning Board Recording Secretary

Minutes Accepted on September 13, 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.*