

Oak Bluffs Planning Board
Meeting Minutes

March 10, 2017 at 12:00 p.m. in the Oak Bluffs Town Hall Lower Level Meeting Room

Members in attendance: Brian Packish (Chairman), Robert Fehl (Vice Chairman), Ewell Hopkins

Members absent: Erik Albert, Jeremiah McCarthy

Staff in attendance: MacGregor Anderson (Administrative Assistant)

Chairman Packish opened the hearing at 12:00 p.m.

Site Plan Review for Rosie's Frozen Yogurt, 19 Circuit Ave Unit C, Map 8-277, proposal for an approximately 800 square foot self-service frozen yogurt store

Chuck Sullivan said he was representing Steve and Sindy Steinberg who planned to open a self-service frozen yogurt shop on Circuit Ave. This would be their third shop as they operated two Rosie's in Connecticut. They would be occupying a portion of what had been Seasons restaurant, the unit formerly containing a real estate office which had moved next door. Seasons had been converted into three commercial spaces. They would be doing no exterior work as it had all been brought up to code during the recent conversion of Seasons. The interior was basically case work and the addition of one interior wall to separate the retail area, along with the addition of five sinks, four yogurt machines, cases for toppings, and a small cashier bar. Mr. Sullivan said they'd already had new business approval from the Selectmen and believed the Board of Health had signed off.

Chairman Packish said a question had come up regarding wastewater when the application had been distributed. Mr. Sullivan said he thought Mr. Steinberg had dealt with that. Mr. Anderson said Mr. Barbadoro had called Mr. Steinberg that morning about wastewater, so unless they had spoken in the past few hours, it had not yet been done. Mr. Sullivan said he would double check with Mr. Steinberg as he knew he had talked with him about it at one point.

Member Fehl asked Mr. Sullivan if the equipment would just come off the truck and be slid into place, or would they need to open things up? Mr. Sullivan said the applicant would be bringing in a new electric service to handle the refrigeration and the yogurt machines. The yogurt machines were essentially built into a wall. The only build-ins would be the sinks. Member Fehl and the other Board members reviewed the plans with an emphasis on the handicap bathrooms and the exterior walk-in. Mr. Sullivan said the walk-in was used for storage and the applicant might rent it from the game room. Mr. Sullivan also detailed the separation of storage walls already in place. Mr. Sullivan pointed out that when the last renovation was done they had shingled the cooler so it no longer looked like a cooler.

Member Fehl asked Mr. Sullivan if they had had any contact with the Campground regarding access and deliveries. Mr. Sullivan said as far as he knew there was no access from the Campground. Member Fehl said they used to lease space from the Campground. Mr. Sullivan agreed but said the Steinberg's were

not dealing with the Campground at all. He knew Sharky's still did, Linda Jeans still did, and wasn't sure if the game room did, but the Campground had been trying to eliminate those leases. Member Fehl asked if they would be taking their deliveries in the front. Mr. Sullivan said yes.

Chairman Packish, reviewing the site plan review approval requirements, noted drainage usually came into play, but given that this was a recently renovated building he didn't know that it was a point for discussion. Lighting often came into play in site plan review, but he saw no additional lighting. The next criteria were traffic and parking. Was this an expansion over a previous use? Regarding trash and utilities, he noted the shared dumpster in back. Chairman Packish continued, noting view, glare from headlights etc. were not issues. Exterior renovation issues were not applicable, and contamination of groundwater didn't apply as this was on sewer. Compliance with the by-law appeared covered, as signage would make it to the committee. Chairman Packish asked Mr. Barbadoro if he had anything he would like the Board to consider.

Mr. Barbadoro said this triggered a site plan review because of a change of use greater than 500 square feet. There was no definition of change of use in the by-law so he used a change in the appendix use table. Mr. Barbadoro said Mr. Sullivan had privately discussed his definition which differed, and Mr. Barbadoro said he was happy to hear how the Board defined it. That could be a topic for a different day.

Mr. Barbadoro said no building permit shall be issued unless written approval of the site plan review comes from the Planning Board or 60 days elapses. Mr. Barbadoro noted the Board had already reviewed some items on his list but thought they might also want to consider some others. Mr. Barbadoro said a utility landscape plan shall include all facilities for refuse storage. The landscaping requirements of the by-law said if you had outside storage you needed to provide fencing against a residential use. Further, wastewater often required restaurants to have an exterior grease trap in the ground. Additionally the by-law requires a written timeline estimate for when the work would be done and how it would be done in order to not impact other downtown businesses. The by-law also required off site narratives of traffic and noise. The current business was 9-5 with only a few people and now hundreds of people would be using this business and the hours were unknown. Finally, the applicant was required by the by-law to supply a written certificate of compliance with ADA and AAB. In looking at the plan, Mr. Barbadoro said he didn't see information on the self-serve units. Those would have to be handicap accessible. Mr. Sullivan said Mr. Barbadoro should have received the cut-sheets showing this. Mr. Barbadoro said he didn't have the self-service cut sheets, just coolers and other things.

Mr. Barbadoro urged the Board to think about the handicap accessible bathroom as it was through the business space, making it not accessible to the front. He noted that there had been a lot of complaints as of late about accessibility on Circuit Ave. Mr. Barbadoro suggested having Mr. Sullivan explain why this was compliant. It appeared to qualify under ADA title iii for employees, but he wondered how it would be used.

Mr. Sullivan said the Board of Health regulations stated that if you don't have table service you are not required to have a public bathroom. Mr. Barbadoro asked what the plumbing code called for. Mr.

Sullivan said he'd have to check, but he had gone through it earlier and it was fine. Chairman Packish noted there was no bathroom next door at the carousel, not that this made it right, but he wanted to point it out.

Chairman Packish said he thought Mr. Barbadoro's points were good ones. Chairman Packish said when he looked at storage and screening and things of that nature, it appeared everything was stored inside except for the trash. The dumpster had been back there for some time, although he recognized that its contents would change, which could be a future Board of Health issue. Chairman Packish said when he thought of traffic, he considered the fact that very recently there was a substantial restaurant and bar in that location for 18 hours a day. Although that didn't always apply, given this was so recent, and two units were still office, he found it relevant. Chairman Packish said he did not envision a lot of people driving to this location, so he didn't see parking mitigation as relevant, although other Board members might disagree.

Chairman Packish said he had a certain level of discomfort in how Mr. Barbadoro applied the change of use criteria. However, he also saw a lot of value in the approach, for instance if you were going to a 28 seat restaurant from a residential unit then there would be impact. In this case, the question was whether this change was big enough. It was a topic he planned to discuss with the Board once they considered zoning amendments. Previously, he thought most people felt it was just residential vs. commercial. However, he could understand how those uses could generate significantly different impacts.

Chairman Packish said he thought this application was pretty simple and straightforward based on its location, the previous use of the building, and the recent renovation of the building. Member Hopkins said he'd like to condition the approval on deliveries coming in the front, and he wanted that in the decision as it was not minor. Second, he wanted a condition that trash was the only material stored out back. He did not want that to become a staging area.

Member Fehl said that Mr. Barbadoro had discussed a grease trap, which Seasons had, but he wasn't sure if the wastewater lines had since been split. Mr. Barbadoro said he wasn't sure that Seasons had an external trap, which was what the wastewater commission typically wanted for restaurants. Member Fehl said he thought there had been two, but he could be mistaken as he hadn't been with the Campground for many years.

Chairman Packish said his feeling was that Jim would follow through on wastewater, having been very thorough in several installations the Chairman had done recently.

Member Hopkins made a motion to approve the site plan review application on the two conditions that deliveries be done through the front and that there was to be no external storage beyond trash pickup. Member Fehl seconded the motion. The vote was 3-0 in favor of the approval with conditions.

The meeting was adjourned at 12:20pm

Documents used in this meeting:

Agenda

Site Plan Review application