

**St. George Planning Board**  
**August 8, 2017 - 7:45 p.m.**

The Planning Board meeting was called to order at 7:50 p.m. Members present were: Anne Cox, Chair, Noah Bly, Jane Brown, Mary K. Hewlett, Michael Jordan, Ray Emerson and Paul Gill. Also present: Terry Brackett, CEO, Tim Polky, Richard Bates, Robert J. Hughes, Paul Gibbons, Esq., Patrick Mellor, Esq., Amanda Meader, Esq., Alex Acquisto, Joss and Sandra Mason Dickson Coggeshall, Deborah Cotton, Anita and Robert Siegenthaler, Larry Bailey, Scott Sullivan, John McIlwain, Sandra Roak, Mr. Taylor, Tom Lloyd, Anne Moore, Chris Moses, Adele Welch, Julian and Tatiana Fischer, Sue Port, Michelle Wilson, Suzanne Merrill, Kevin Lipson, Ronald Merrill, Evelyn Blum, Louise Cormier, Will Gartley, Jim Dorsky, Randy Dunton, Suzanne and Don Moore, **Carolyn Thou**, Peg Fields, Elizabeth Ketcher, Tammy Willey, Becky Barrows, Holly Baearisse, Julie Cornell, Deb Flack, Linda Bean, Tina and Jeff Riedl, Susan Burns, John Whitney, Ann Snow, and Donald Wilson III.

**Quorum:** A quorum was present.

**Conflict of Interest:** There was none.

**Adjustments to Agenda:** There were none.

**Review of the Minutes:**

**Public Hearing on the Happy Clam/Tiki Hut/Barbeque Pit – July 25, 2017** – The minutes were amended as follows:

Page 11, half way down page and first large paragraph under Hall, line 3 corrections:

... had to be **quiet** certain hours...

... delivery trucks could **pull** in the yard and turn...

A motion was made by Hewlett, seconded by Brown, to accept minutes of the July 25<sup>th</sup> Happy Clam/Tiki Hut/BarbequePit Public Hearing, as amended, 4-0.

**Planning Board Meeting – July 25, 2017** – The minutes were amended as follows:

Page 6-7, under Existing Utilities, ...water or bathrooms. The structure will have electricity. (remove wording: **for several outlets and lighting**)

A motion was made by Hewlett, seconded by Brown, to accept the Planning Board minutes of July 25, 2017, as amended, 4-0.

**Findings of Fact**

- **The Happy Clam/Tiki Hut/Barbeque Pit** –  
Page 1, Conclusion of Law, under 2., line 2 delete **contingent upon the receipt of the NRPA permit** and change to read... standard has been met 5-0.  
Page 3, under Therefore, line 3, change to ...ordinance **with the following contingency:**
  - **The NRPA permit is granted and the CEO is provided a copy of that permit.**

A motion was made by Brown, seconded by Hewlett, to accept the Findings of Fact/Conclusion of Law for the Happy Clam/Tiki Hut/Barbeque Pit, as amended under THEREFORE, contingent upon the receipt of the NRPA permit. The vote was 4-0 pursuant to the Performance Standards Review, Section V, A1-20 in the Site Plan Review ordinance.

- **Marshall Point Lighthouse Museum** – A motion was made by Hewlett, seconded by Brown, to accept the Findings of Fact/Conclusion of Law for the Marshall Point Lighthouse Museum, as written. There was no discussion. The vote was 4-0 pursuant to the Performance Standards Review, Section V, A1-20 in the Site Plan Review ordinance.

**Public Comments:** There were none.

#### **Site Plan Review:**

**The Wyeth Reading Room** – The applicant was present and represented by Attorney Paul Gibbons. The application is to remove the existing buildings on the 20 Horse Point Road site and build a 1,413-square foot building to house the Wyeth Reading Room. The Center is to study the history of the Wyeth and Chase families in Port Clyde.

- A pre-application was completed on December 13, 2016.
- An Site Plan Review was held on February 14, 2017
- An on-site Visit/Public Hearing was held on March 4, 2017
- Public Hearings were held on: March 21, 2017, June 27, 2017, and August 8, 2017

(The following narrative is non-verbatim):

Hewlett asked if the Planning Board could have a discussion amongst themselves, before reviewing the Performance Standards. Chair Cox said yes.

Hewlett: I have a question as to a possible compromise. Whether this meeting room could be open by appointment only and not to the general public.

Chair Cox: I don't know. I think when we get to dealing with the different terms and parts of the site plan review and we get to the hours of operation, we could ask about that.

Hewlett: I think it has to do with parking and it may be a lot of issues. The other question I have is the setbacks. Terry, what is your feeling on the setbacks?

Brackett: I'm pretty comfortable with them.

Hewlett: Which? The way it has been presented?

Brackett: The way the site plan was drawn by Gartley & Dorsky.

Hewlett: Okay. And with their corroborating letter?

Brackett: Yes.

Chair Cox: Actually, we will get it into it; but we could look at the plan, right now, and look at what it is, so we are all pretty clear. (The plan is being reviewed.) Here is Raspberry Lane. This demarks the iron pin that was found. Another iron pin was found over here. The question is, given if that is the pin, then that would be the northern edge of the right of way and the line of travel is not in the center of the right of way which appears to be from pin to pin. That is what you were arguing, yes?

Gibbons: If you have any questions, you can ask our surveyor.

Chair Cox: Yes. That is, indeed, what you are saying - is that we see two pins.

Dorsky: I am Jim Dorsky and I am a land surveyor. I reviewed this plan at Paul's request.

Hewlett: Is yours's dated 080? Or project number?

Dorsky: The project number, 17080, June 1, 2017.

The way Mark Ingraham came up with this line was he found these pins at these locations. But more importantly, he had a deed description of this property which also included the Wilson property.

Originally, they were divided from each other, but that description goes back to at least 1902. I did not go back any further, but it is a description that has distances in it, into rods and links. A link is a 1/100 of a chain which is 7.9 inches, so that tells me it was done with a survey, maybe late 1800's, at least older than 1902 or more than 100 years old. It is pretty accurate. I mean, really accurate for that day and age to have a description to the link. I mean, other surveys might have only been to the rod which is 16 ½ feet, so he has a pretty accurate description which you can plot with the geometry and make this figure, and the back end of that description is the back side of the Wilson property where there is a stone wall and some old iron rods.

He was able to take that, and I actually reviewed this myself. I took the description. I drew it all out on auto cad, and I placed it on the face of the earth, holding this stone wall and the iron pins. It fit with everything up here, and there was another survey done by somebody else before Mark Ingraham of all this property. All that stuff matches up together, and when you hold that stone wall and everything, this is where the line in that deed description comes out. And in that deed description, it starts here, it goes up like this, then goes all the way over to the wall, up, over the road, down and back. When it gets to here, it says, to the northerly side limit of the road to W. A. Moody's or something like that, but it is the northerly side limit of the road, and then runs along the northerly side limit of the road. That language clearly is talking about the northerly right of way line.

So, it is my opinion, and had to have been the same from Mark Ingraham that is the best evidence; it's the location of that right of way line. There is only one type of professional in the state of Maine who can determine where property lines and right of way lines are and that's a

professional land surveyor. Patrick keeps saying it's up to us to meet the burden of proof, and we did that by hiring a professional land surveyor who determined that line.

Mellor: So, in response.

Brackett: There is no response.

Chair Cox: No. I mean, we'll ask you a question, when we are ready to ask a question. Okay. So, then what you are saying is that Raspberry Lane – the running way is not in the center of what the right of way is that was surveyed?

Dorsky: Right. I mean, ideally, the best way to determine a right of way is you've got a description. These rights of ways would have been accepted in a town vote, at a town meeting, and there would have been a description that said, "Beginning at a point or a stone monument, two rods and seven links from Josiah's Simpson's barn that's on some bearing and distance, some other direction." You could plot that all out, and if it was called monuments, then at the end it would say, the "above described line being the northerly line of the road, and the road to be two rods wide," and if you went out and found those monuments, the distances matched, and the angle and relationship all checked reasonably well, then you offset it 33' south, you'd have it.

In this case, the town doesn't actually have a record of the acceptance. They have a list of roads that says it's 33' wide and that it was accepted in 1836; but they don't actually have the record of it, and there are rules that say, if you don't have a record of it, then you'd have to assume that this road is a town way based on prescription which means that it's based on the fact that it has been used a long enough period of time that it is a town way.

When a road is created by prescription, the location and width of the right of way is based on the actual use. In this case, that would be the travelled way, itself, because there is no town use for maintenance beyond the edge of the payment. That is why Mark Ingraham is showing these two different lines – the hashed area between; but he said, we are going to go with this one because it is more conservative, it's more restrictive to our client. We will go with this one, as opposed to the travelled way, and because that old deed does indicate that that is the right of way line, and he was able to place it pretty accurately on the face of the earth, and because it is a good description to the nearest link, and he's got stonewalls and monuments to hold the place in.

Chair Cox: Thank you. Are there any questions regarding this? I think we are okay. You have given us much information.

Mellor: I would, just for the record, like to be able to respond; but if you tell me I can't, I will respect that.

Chair Cox: Please, why don't you then, quickly.

Mellor: The deed references a road. It doesn't reference the right of way. What the applicant is asking you to do, is disregard the town records that require the road to be 33'. That is the only record that you have - is that the town road is 33'. So, the applicant is asking you to disregard

that. There is no reflection on the survey of the 33' wide right of way. So, now you have to take that road as the surveyor, on behalf of the applicant has laid it out, and go 33' the other way. That is going to have an impact on the neighboring properties, and it's going all the way down Raspberry Lane.

There was a brief discussion between Meader and Dorsky.

Dorsky: I am not saying that the road is not 33' wide. I am just saying that the best evidence as to the northerly line is in that deed.

Chair Cox: I think so, too.

Dorsky: The town - their record is a list of roads. It also says on that list of roads; the boundaries are unknown.

Mellor: Right. As it does on most of the roads.

Dorsky: If you don't, well.

Meader: Thank you. Thank you.

Chair Cox: I think we're good. I think we are good figuring this out, and clearly there is a big can of worms we have opened up here. It seems to me, we have information regarding the right of way and the roads, it will never be exactly clear. It seems like they went with the more conservative line, based on where the pin was.

Brackett: Anne, there are pins in the ground down there for various places, and if people want a 33' road and it doesn't happen to be 33' wide, right now, they are going to lose land.

Chair Cox: Yes. That is true, so if we go over to the other side, we'd lose something.

Hewlett: This survey does show this entire red hash mark is unknown, so they did go conservatively towards their own structure, just in case. One inch equals ten feet.

Chair Cox: This is not an easy task for us. There is a lot going on and I think all of these issues will come up when we start getting going through the Performance Standards, including your question that we can ask the applicant when we get to it - hours of operation. Are we ready to start our first standard?

**The Planning Board began the Performance Standard Review.** During the review, issues arose and the following motions occurred:

On a motion by Brown, seconded by Jordan, it was voted 5-0 to extend the meeting from 9 p.m. until 10 p.m.

At 9:05 p.m., on a motion by Jordan, seconded by Brown, it was voted 5-0 to go to Executive Session for the Board to obtain legal advice from Ms. Meader.

At 9:15 p.m., on a motion by Hewlett, seconded by Brown, it was voted 5-0 to resume the Planning Board meeting.

On a motion by Bly, seconded by Brown, it was voted 5-0 to skip over Performance Standards 3 and 4, to continue with the standards, and return to those, for further discussion.

On a motion by Hewlett, seconded by Bly, it was voted 5-0 to pass over Performance Standard 8 and return to it, for further discussion.

On a motion by Hewlett, seconded by Brown, it was voted 5-0 to pass over Performance Standard 10 and return to it, for further discussion.

On a motion by Hewlett, seconded by Brown, it was voted 5-0 to pass over Performance Standard 11 and return to it, for further discussion.

On a motion by Bly, seconded by Jordan, it was voted 5-0 to pass over Performance Standard 20(a) and return to it, for further discussion.

**Performance Standards:**

1. Preserve and Enhance the Landscape – On a motion by Hewlett, seconded by Brown, based on L-100, dated 6/1/17 of the preliminary landscaping plan, standard has been met 4-0. Low plantings been planned to screen parking and buffer headlights, a gravel walkaway and minimal tree removal is planned. If the trees do not survive, applicant will replace them.
2. Relationship of the Proposed Buildings/Structure to the Environment – On a motion by Brown, seconded by Jordan, standard has been met 5-0. The structure will be harmonious with the existing buildings in the area.
3. Vehicular Access –
4. Parking and Pedestrian Circulation –
5. Surface Water Drainage – On a motion by Hewlett, seconded by Brown, standard has been met 5-0. This is based on the July 13, 2017 letter presented by Gartley & Dorsky showing where the runoff will be, and it will be less post-development than currently. The drainage ways will be addressed by installing a stone drip edge rainfall collection system along the perimeter of the buildings to deal with the storm water runoff.

6. Existing Utilities – On a motion by Hewlett, seconded by Brown, the standard has been met 5-0, the existing utilities are sufficient. This was based on the correspondence from Dick Nixon of the Port Clyde Water District, dated May 30, 2017, that the water system is adequate.
7. Advertising Features – On a motion by Hewlett, seconded by Bly, standard has been met 5-0. The size, location, design and lighting of the exterior sign will be based on the SK-sign sketch plan and the location of the sign has been specified and included on the C-1 plan.
8. Special Features –
9. Exterior Lighting – On an amended motion by Bly, seconded by Brown, standard has been met 5-0. There will be five exterior lights as shown on A-200, all down-shielded and only lit during the hours of operation.
10. Emergency Vehicle Access –
11. Municipal Services –
12. Water/Air Protection – On a motion by Bly, seconded by Hewlett, standard has been met 5-0. The project will not result in any undue water or air pollution as it is out of the flood plain and the soils are adequately said to support the water disposal.
13. Water Supply – On a motion by Hewlett, seconded by Brown, standard has been met 5-0. There is sufficient town water available for this project as outlined in a letter from Dick Nixon, Port Clyde Water District Manager.
14. Soil Erosion – On a motion by Brown, seconded by Hewlett, standard has been met 5-0. During the construction phase, Best Management Practices will be utilized to limit soil erosion and the surface water runoff will be minimized.
15. Sewage Waste Disposal – On a motion by Hewlett, seconded by Bly, standard has been met 5-0. The subsurface wastewater disposal system application dated 3/13/17, was submitted. A new septic system will be installed with a capacity of up to 180 gallons a day usage, concrete chambers and a leach field.
16. Hazardous, Special and Radioactive Materials – On a motion by Bly, seconded by Bly, standard is not applicable 5-0. No hazardous materials will be stored on site.
17. Financial/Technical Capacity – On a motion by Hewlett, seconded by Brown, standard has been met 5-0. The applicant has the financial and technical capacity to complete the project.

18. Shoreland Zone – On a motion by Hewlett, seconded by Bly, standard is not applicable 5-0. The property is not in the shoreland zone.

19. Flood Plain – On a motion by Bly, seconded by Jordan, standard is not applicable 5-0. The property is not in the flood plan.

20. Lot Standards

a. Lot configuration and area should be designed to provide for adequate off-road parking service facilities.

b. The maximum lot coverage for structures is 20 percent:

On a motion by Hewlett, seconded Bly, standard has been met 5-0. The application states the maximum lot coverage with the addition of the proposed structure is 12.4%.

c. The maximum height of buildings is 35 feet:

On a motion by Hewlett, seconded by Brown, standard has been met 5-0. The maximum height of the building is 20 feet.

d. The minimum building setbacks are:

- 1) Front yard: 25 feet from edge of right-to-way.
- 2) Side yard: 20 feet from property line.
- 3) Rear yard: 20 feet from property line.
- 4) Shoreland: As per Shoreland Zoning Ordinance.

On a motion by Jordan, seconded by Brown, standard has been met 5-0. The setback requirements are based on the best documentary evidence from the Gartley & Dorsky letter, dated July 12, 2017, which exists shows that the northern boundary of the actual road is, the most likely boundary of the right of way.

Chair Cox: Now what do we do with everything that we have decided to hold off on? My gut tells me, we are not ready to make a decision, tonight.

Hewlett: It is going to be past 10 p.m.

Chair Cox: What do we need to do in order to be able to make a decision?

Brown: Should we hire our own independent?

Chair Cox: Would an independent traffic engineer give us information that would be helpful around vehicular access and questions beyond the information we have?

Bly: I feel like we have already gotten the professional and we've heard, strongly, from the people, too. I feel like I have a very good impression of what the road is like, judging by what the residents have said.



Gill: I don't know if another engineer would do anything to change what the people who live there, see every day.

Hewlett: I do think that safety is a huge issue, here. I certainly understand the residents and what they are hearing, and I think if we could limit the number of cars, that would address some of the safety concerns. Not all of them, but at least, we are compromising.

Mellor: Perhaps that is something that a counsel could assist with in terms of, if there was an independent engineer. We could talk about the parameters. To provide the Board with more assistance. Just an idea.

Cox: I think it is up for us to decide. I think, my guess is, that an independent person would, even if was exactly the same information, it wouldn't feel like it's partisan. I have a feeling we do have the information that we need. I just think we do not want to make a decision.

Brown: I would agree.

Hewlett: I think we all want to think a little bit more about whether people are willing to compromise with the by appointment hour, and if that was the case, it changes the scope of the project. If I lived on Horse Point Road, it would change it for me.

Gibbons: May I say something?

Hewlett: In this day and age, you all go on your apps and you find the 10 Most Important Sites to see in Sedona, AZ and if all of a sudden, this app with this comes up, and it says, By Appointment Only, right there, you are not going to drive there.

Bly: A lot of people will find it by using their phone, and then they would see right there. Call it, make the appointment. I think there is definitely going to be some people who see a sign, and drive down there, regardless. That is unavoidable, but I think by having appointments, it would help.

Hewlett: The placement of the sign away from the curb but up closer. You are not going to be able to see it while you are driving by.

Gibbons: I would say this. I have represented a lot of towns and when you have your own engineer, they sometimes provide you with options that you have not thought of.

(A public member who wanted Mellor to speak.)

Cox: Your lawyer also spoke.

Public member: Two seconds and you shut him down.

Cox: Shut him down, we listened to him, as well. Thank you. It could help us. I do believe, we are not going to make a decision on this tonight. I don't feel like I want to. I think we have had some new information come to us - some new ideas, and I need to sleep on it.

Hewlett: And digest it.

Chair Cox to Meader: We don't have to, correct? We don't have to have a decision?

Meader: No. Absolutely, not.

Emerson: If we hire our own engineer, could we talk to "them" before "he" starts his report?

Meader: Sure.

Emerson: And say, this is what we are looking at?

Gill and Hewlett: Could we find the engineer and could we share with them the...?

Gill: Could we start the process? Find an engineer and say we're doing a survey; no background on this at all. Just, we want a study on this?

Brown: Don't say it is about a...

Meader: As soon as someone is asking me to do a project, I am googling it.

Brown: They wouldn't have to know which side of the fence, if there was fence side.

Chair Cox: We could have our own person that may make us feel better, or at least we would have more information.

Gill: Or more confused.

Hewlett: We have all heard you can have a professional. We have had other applications where we have had two experts that are totally opposite, and they are both experts.

Bly: Maybe it would be a good idea, then. My first thought, is that it wouldn't make any difference. We're in this deep.

Hewlett: And it can't hurt.

Chair Cox: Is that everybody's pleasure, then? What do you think?

Jordan: I would not be against it.

Hewlett: That is a good way to put it.

Chair Cox: Any idea how long it would take an engineer to look at this?

Dunton: Probably a week to two.

Meador: I am thinking about how we select an engineer. I am just thinking did Tim and Terry feel like they have enough background to reach out to an engineer that we are comfortable with?

Mellor: It is possible you have to go out of state. It's possible.

Gibbons: Here is what I am thinking. Very simple. I just think the easiest way is to get the Code Enforcement officer and someone else from the town, pick someone. We will give you the list of all people who are licensed, pick one of them, we will pay it. I don't see it is that difficult.

Meador: I was just thinking about whether you want this person, you want this person. It can get difficult.

Chair Cox: I think we are in charge of that. So, we are in driver's seat, if we are going to choose someone, then we will choose it.

Brackett: We being?

Chair Cox: Me, you (Brackett) and Tim, right? Okay? So, we will put our heads together, we will look at the list, use our resources, and we will choose someone. Once we have a report, we will schedule the meeting. Do we need a motion to that affect?

Siegenthaler: Is there going to be more statistics without any...(unintelligible)?

A motion was made by Jordan, seconded by Brown to delegate to the Chair, the Code Enforcement Officer and Town Manager, the job of hiring an independent traffic engineer to evaluate issues needed, to make a decision.

Chair Cox: We have reached 10 p.m.

Hewlett: Are we going to make a motion to table this application until we have the traffic report?

Emerson: Continue it?

Meador: Table or continuance? I would say, table it. We are not really continuing the Public Hearing.

Gibbons: The way I look at it. As long as, you advertise the next meeting, we continue this, if we agree to advertise. If you say you want to do it or you do not, but if you say you want to have another meeting, you want to advertise the meeting.

Chair Cox: What are we going to do? Are we going to continue it?

Brackett: Table it.

Polky: It depends on how long it is going to take to get that study. If you say you are going to continue it say for one month, that would probably give you enough time to (unintelligible).

Chair Cox: Shall we continue this for one month?

Brackett: Continue or table this?

Polky: Either way. I think continuance, if you know that you are going to come back here and continue it.

Meader: I would almost say we would need to continue to a date certain; however,...

Chair Cox: Maybe it would be simplest to table it, since we don't have a date certain.

Meader: You don't do a newspaper publication, do you? Because that is where the expense and I think that is what Paul is thinking about, is Public Hearing.

Brackett: To a Public Hearing, we do, but not to a meeting.

Meader: Not to a standard board meeting which is what this would be.

Gibbons: My recommendation is they continue to a date certain for a month or 6 weeks and then after that, if you needed more time, we just open up the meeting and say, I need more time.

Polky: Six weeks' time, you would definitely have that study.

Chair Cox: We will continue it until September 26<sup>th</sup>, the last Tuesday in September. That was somebody's motion.

On a motion by Hewlett, seconded by Brown, it was voted 5-0 to continue the Wyeth Reading Room application and Site Plan Review to Tuesday, September 26, 2017.

At 10:05 p.m., on a motion by Bly, seconded by Brown, it was voted 5-0 to adjourn the meeting.

Respectfully submitted,

Marguerite R. Wilson  
Planning Board Recording Secretary

