

**St. George Planning Board
May 23, 2017 – 7:00 p.m.**

The Planning Board meeting was called to order at 7:00 p.m. Members present were: Anne Cox, Chair, Noah Bly, Jane Brown, Ray Emerson, Paul Gill, Mary K. Hewlett and Gary Minery. Also present: Terry Brackett, CEO; Richard Bates, Elizabeth Curtis, Greg Howland, Jim Barstow, Bill Reinhardt, Darci Lynn Chickering-Morris, Craig Rackliff, and Laura Armitage.

Quorum: Ray Emerson was elevated to voting status. A quorum was present.

Conflict of Interest: There were none.

Change in Voting Status: Gary Minery was elevated to voting status. Ray Emerson was removed from voting status.

Adjustments to the Agenda:

The application for 47 Main Street LLC, parking expansion area, was moved **to top under site** plan review.

Review of the Minutes:

Planning Board Meeting – April 25, 2017 – On a motion by Bly, seconded by Brown, the minutes of April 25, 2017 were approved as written. The vote was 5-0.

Finding of Facts:

- **Craig Rackliff** – A motion by Brown, seconded by Hewlett to accept the Findings of Fact/Conclusion of Law for a storage building located at 71 Seal Harbor Road. There was no discussion. The vote was taken; the Findings of Fact/Conclusion of Law were accepted as written 5-0 pursuant to the Performance Standards Review, Section V, A1-20 in the Site Plan Review ordinance.

Public Comments: Chair Cox received three letters that pertained to the Wyeth Center application. The letters will be placed in the file and will be available for review at the Town Office.

Site Plan Review:

- a. **47 Main Street LLC** – Laura Armitage was present. The application is to expand the parking area at 47 Main St. by 15' for ease of turning around, pulling out onto the road, and to enhance the area with plantings and landscaping. Chair Cox said this was an after the fact application and Brackett said it was an expansion of the land use. Hewlett added, it was commercial and noted it was safer now to get around in and back out of the parking area. Chair Cox said the area had been expanded and surfaced with reclaim.

Lot Size Coverage: The Planning Board, Brackett and Reinhardt discussed the definition of permeable and non-permeable reclaim. Brackett said he had done a lot of research and it depended on who you talked to. DEP says that packed gravel, reclaim and bituminous

is not permeable; other companies say it is. Reinhardt said, in his opinion, reclaim and gravel and everything like that is permeable. Chair Cox said if the application fell under the nonpermeable, it would be under the 50% lot coverage, but Brackett said if it was like hot top, the site plan review definition says you cannot be within 20' of the property line. Cox said if it was not the same as hot_top, it could go all the way to the property line. Brackett read the definition of Structure from the Site Plan Review Ordinance which included, "It does not include driveways, but does include paved parking areas." He said the issue is, "Is it more pavement or gravel?"

Chair Cox said this Board had not dealt with the issue on how to classify reclaim. Hewlett said it is ground up asphalt plus mixed with some other materials. Minery indicated the color depended on how much gravel was thrown in with it. Hewlett said the more it is driven over, the more asphalt-like it becomes. Minery said he would call it permeable as he has it in part of his driveway and it does not seem to hold water. Hewlett said when she looks at pavement, it rolls the water off; whereas, this sits there. Chair Cox said it has particles and it chips throughout. At Hewlett's request, Chair Cox and Brackett added "improve parking area with reclaimed asphalt" to the project description.

Chair Cox asked Armitage what she would be planting on the steep slope on the road-side, because there could be an issue with run off. She said she had not decided. The Board discussed with her different types of landscaping and low growing plantings.

Hewlett brought up several issues: concern of vehicle headlights shining into houses, especially during winter months, how winter road salt spray could affect certain types of plantings and deer wandering in that area. Chair Cox and Hewlett suggested Armitage consult with an arborist about the plantings, and put something in that was not see-through. Minery suggested putting up a rock wall, and then they would not have to worry about the water.

The Board discussed steps to the sidewalk. Hewlett asked where the steps were on the proposed plan. Armitage said they were on the corner. Hewlett asked Chair Cox if she would put it on the original drawing.

Armitage would like to put in a railroad tie or something with one or two steps down to the sidewalk. Brackett said steps need to have a setback, because they are a structure. Hewlett suggested putting them on the building side. Armitage said there were a lot of houses on Main Street that had steps down to the sidewalk and wondered about that. Minery said those were not commercial buildings. Chair Cox suggested steps going towards the building. Armitage said if she had to change the location of the steps, it would have to be 8 or 10 steps, and she thought that was too many for people to walk down. Chair Cox said she was removing the steps from the plan and was adding plantings along there.

Brackett said the other issue was handicapped accessibility. Hewlett said there was handicapped parking in front of the building. Armitage said yes there was, and they could put up a sign that said handicapped parking.

Armitage wanted to know if she would have to do another review and come back to the Board, if they decided to put steps in? Hewlett suggested she include them on the application, as an option. If they decided to put them in, it would be on this application, and she would not have to come back. Chair Cox told Armitage, she had two years to decide if they wanted to put steps in. Hewlett recommended they be included on the plan as potential steps and shown on the building side. Minery thought a handrail needed to be included with the steps. Chair Cox told Armitage, if they decided to put in steps, talk with Brackett, first.

A motion was made by Brown, seconded by Minery to accept the application with updates, as complete, 5-0. A motion was made by Hewlett, seconded by Minery to waive the onsite visit, as it is an **After the Fact Permit**, it is an expansion of an existing parking area, all the Planning Board has driven by it, and it can be seen by the road. The vote was 5-0. On a motion by Brown, seconded by Bly, the application was approved, 5-0.

- b. **Jamie Wyeth/Brandon Chase** – No one was present. No vote taken as it was already on the table.
- c. **Marshall Point Lighthouse & Museum** – No one was present. On a motion by Brown, seconded by Minery, it was voted to table the application, 5-0.
- d. **6 Wallston Road LLC/Darci Lynn Chickering-Morris** - The applicant and business owner of The Sugar Tree, LLC, was present. The proposed application is for enhancement of business. The project will be located at 6 Wallston Road. The property owner is Linda Bean. The proposed plan is to combine the previous takeout business with her business and include the making and selling of homemade ice cream, pies, baked goods, jams, jellies, hot sauces, and pickles. The proposed project would include a retro candy room from 1940-1990 and seaweed products from the Herring Gut Learning Center. The applicant plans to display some specialty cakes and pies. The majority of her catering and specialty cake business is done by delivery. The applicant will be cooking pies and cake layers and prepping, such as a la carte catering, but will not be cooking restaurant style for retail. Minery said the project was a change of use. Chair Cox said it was a similar use but by cooking then taking the items to other places, it would be considered a change in use.

The Board discussed whether an onsite visit was needed because of these changes. Minery asked how the kitchen was set up. The applicant said there was still one oven, a dishwasher, a refrigerator and two chest freezers, as before. She plans to add a small pie display cooler in the main room and one small refrigerator for wedding cakes. The door and window are near the one stove. Hewlett asked if she would be keeping eight (8) tables with four (4) chairs per table, plus one (1) table with six (6) chairs and was she going to have outdoor seating. Chickering-Morris said there would be some seating. The

proposed plan is to put out 2 fire pits out and a few tables and chairs. She is not having any seating inside. Chair Cox asked if the hours of operation would be the same. The business will be open Sunday-Friday 6:30 a.m. – 8:00 p.m. and Saturday 6:30 a.m. – 9:00 p.m. Brackett did not think an onsite visit was needed, but it was left to the Board's discretion.

On a motion by Bly, seconded by Brown, it was voted 5-0 to waive the onsite visit because it is very similar to the previous business, the hours of operation will remain the same, there should not be an increase in traffic, parking spaces are not changing, and there is very little change to the previous application.

On a motion by Brown, seconded by Hewlett, it was voted 5-0, to accept the application as complete. The Planning Board began Site Plan Review.

Performance Standards:

1. Preserve and Enhance the Landscape – On a motion by Hewlett, seconded by Brown, standard has been met 5-0. There will be no alteration to the existing landscape, as it has already been enhanced and the barrier for the headlights has grown in.
2. Relationship of the Proposed Buildings/Structure to the Environment – On a motion by Hewlett, seconded by Brown, standard has been met 5-0. There are no new buildings or alterations being proposed.
3. Vehicular Access – On a motion by Brown, seconded by Minery, standard has been met 5-0. There are no changes proposed. There is ample vehicle access and exit to the site from Wallston Road.
4. Parking and Pedestrian Circulation – On a motion by Minery, seconded by Brown, standard has been met 5-0. The applicant will place a sign to designate parking and indicate traffic flow.
5. Surface Water Drainage – On a motion by Brown, seconded by Bly, standard has been met 5-0. There will be no change to the layout of the property or change in the surface water drainage.
6. Existing Utilities – On a motion by Brown, seconded by Minery, standard has been met 5-0. There will be no increase in the use of water to the Tenants Harbor Water District.
7. Advertising Features – On a motion by Brown, seconded by Minery, standard has been met 5-0. A new sign will be made with applicant's business name and it will be built to the same size and dimensions as the previous sign.
8. Special Features – On a motion by Minery, seconded by Brown, standard has been met 5-0. There will be no change to the hours of operation which will be Sunday-Friday 6:30 a.m. to 8:00 p.m. and Saturday 6:30 a.m. to 9:00 p.m., and no live music or entertainment.
9. Exterior Lighting – On a motion by Minery, seconded by Hewlett, standard has been met 5-0. There will be no changes or added exterior lighting.
10. Emergency Vehicle Access – On a motion by Minery, seconded by Brown, standard has been met 5-0. There is ample access to emergency vehicles at the site.
11. Municipal Services – On a motion by Brown, seconded by Minery, standard has been met 5-0. There will be no change and there will not be any unreasonable, adverse impact on municipal services.
12. Water/Air Protection – On a motion by Brown, seconded by Hewlett, standard has been met 5-0. There are no proposed changes to the project which would cause water/air pollution.

13. Water Supply – On a motion by Minery, seconded by Brown, standard has been met 5-0. There is ample water supply provided by the Tenants Harbor Water District.
14. Soil Erosion – On a motion by Minery, seconded by Brown, standard has been met 5-0. There is no soil disturbance proposed.
15. Sewage Waste Disposal – On a motion by Minery, seconded by Brown, standard has been met 5-0. There is no change proposed. The current system has not malfunctioned and has not needed replacement. A new septic system has been issued in the event there are issues.
16. Hazardous, Special and Radioactive Materials – On a motion by Brown, seconded by Minery, standard has been met 5-0. None proposed.
17. Financial/Technical Capacity – On a motion by Brown, seconded by Hewlett, standard has been met 5-0. The applicant has the financial/technical capacity to carry out the project based on previous businesses she owns in town.
18. Shoreland Zone – On a motion by Hewlett, seconded by Brown, standard is not applicable 5-0. The project is not in the shoreland zone.
19. Flood Plain – On a motion by Hewlett, seconded by Brown, standard is not applicable 5-0. The property is not in a flood plain area.
20. Lot Standards – On a motion by Brown, seconded by Hewlett, standard has been met 5-0. There is no change. There is adequate parking, no change in lot coverage, no new buildings proposed, and the minimum building setbacks will remain the same.

On a motion by Brown, seconded by Hewlett, it was voted 5-0 to waive the Performance Guarantee. The Planning Board has reviewed the 20 Performance Standards and they have been met. On a motion by Minery, seconded by Brown, it was voted to approve the application 5-0 pursuant to the Performance Standards Review, Section V, A1-20 in the Site Plan Review ordinance.

- e. **The Happy Clam** – Greg Howland, the applicant, was present. The application is to construct an open platform Tiki Hut and Barbeque Pit behind the Happy Clam Restaurant located at 13 River Road. The Tiki Hut would have a bar inside with smokers and a barbeque. It would be an open-air structure with the opening towards the restaurant. Two sides would face the neighbors – to the south and to the east. The applicant presented a blueprint of the plan.

Minery thought the number of seats was a large part of the plan and asked how many he was licensed for. Brackett was not sure but thought it was around 100. Minery asked if there would be cooking under the enclosed part. The applicant said no, it would be outside.

Chair Cox, Brackett, and members of the Board said there was an issue regarding the request for use of a Porta Potty. Howland said he could tie into his existing septic but would like to have a Porta Potty, because he would only be using the Tiki Hut 3 months out of the year; and, it would make more economic sense for him, right now. Brackett said a Porta Potty was not legal for this operation. Bly did not think anyone would use the Porta Potty if there was a bathroom in the restaurant. Howland told Chair Cox he would like to add 24 seats and told Minery he was licensed for 80. Howland told Minery there were 40 seats inside and roughly that many outside.

Emerson said he was at his max, and Hewlett asked if the septic could take the expansion. Brackett said if we take the actual water usage, it might not be, but he was maxed out on the prescriptive method because he was serving 3 meals a day. Howland asked why he could not use a Porta Potty as there were other ones in the area. Brackett gave examples of use: an outdoor venue, music festival or something for a day or weekend. He said the hut was a more permanent structure and regular bathroom facilities would be needed.

Emerson suggested he figure out his water system and come back with the information. Brackett said if he could get the water records, we probably could say that the system will handle a few more seats. Howland said he was on the Tenants Harbor Water District, and he had the records.

Reinhardt asked to speak. He said, "Based on his water usage on his previous application that he got approved for, on the septic for the house outback, it was based on water usage. It had more than enough capacity, so why could you not base it on water usage now with a meter?" Brackett said we could, but we would need to see the water records to make sure they are adequate.

Brackett told Brown and Chair Cox that Howland did need a permit to increase his seating capacity. Minery said, "But even then, he would have to incorporate a bathroom into this plan not a Porta Potty." Hewlett said there needs to be an interior bathroom. Howland said he could do that. Chair Cox said the question is whether the State will approve 24 more seats for you.

Chair Cox said to Howland, "You have expanded your parking, it looks like, on (the plan) here." Howland said he did that two or three years ago. Brackett and Chair Cox thought some of those parking spaces looked as though they were inoperable because on his plan, they were in a corner area. Howland said maybe he had 50 parking spaces. Minery asked Brackett if there had to be handicapped parking for the proposal. Howland said he had two spaces with signs: one in front of the sign and one at the end of the building. Brackett said three (3) might do it but would have to double check.

Minery asked if the Tiki Hut would be handicapped assessable. Howland said, yes.

Chair Cox said there was inconsistency in the two site plans they had regarding the parking area and the Tiki Hut open areas. Hewlett said, one open area is facing the Clam and the other one is facing the parking area. Hewlett had concerns about the noise if it was open against the Hall property and Stimpson property. The Board and Howland discussed which plan was correct and that the plans were difficult to read and understand. Chair Cox said it would be useful and helpful to have a very clear plan on what he wanted to do. The result was Howland agreed he would draw up a better plan.

Chair Cox and the Board discussed the land behind the restaurant and the fill. Chair Cox noted that Howland had been filling back there. She said the Board had raised questions about where the fill line was and about the structural stability of the fill. Howland said

they were going to use the precast cement columns/supports. Chair Cox asked if he had filled in more than four feet, and he said no. Hewlett said, "But I think it is a wetland, too." Chair Cox said, "It is a wetland underneath it, so that just raises lot of questions." Chair Cox recommended a site plan to show where the fill line was. Cox said in terms of the structures, they would want and to have a soil engineer sign off on his plan because it is a wetland that had been filled. Howland said the DEP stopped by last week about an issue across the street, so he also asked DEP about the outback area. He told Howland to put some rip rap along where the water drains to the ditch and then topsoil and grass before they started the project. He was going to send him a letter to that affect. Emerson said that would help if he got that letter.

Brackett said that would not tell us that the soils would support the building. Howland said DEP said that this would have a lower impact than if he would have put a house on it. Brackett said but it still does not say that it will support that building, adequately. Hewlett said we do not want it sinking after you have made this huge investment. Howland said I do not want it sinking, either. Hewlett said we know it is fill and you know it is fill, so we want to make sure that it is built properly and you are not coming back to us and saying my Tiki Hut fell over and injured people.

Chair Cox asked Barstow if he wanted to speak. Barstow said he was here for the first meeting and was told that we had to have a soil analysis. He said he had called Reed & Reed Construction, Sargent Construction who put all the water mains in, friends of his, he had called two or three uncles who were huge construction people; they did not understand why you wanted to do the soil test. It was just a small building and the soil analysis would cost about \$15,000. He said any place you dig in this town, you would hit ledge and there had never been a building around here that he knew of that had failed because of the foundation. He asked if anyone knew of any place around here that had failed because of the foundation? Chair Cox said that was indeed true, you hit ledge in a lot of places, and we also have wetlands that go down way low where the ledge dips down and that was what he filled in.

Brackett had done some research, also. He said that he had talked with a number of people – Gartley & Dorsky among them, and they agreed that there should be some exploration done there to make sure the soils were adequate. He called the company in Rockland that does that, and he felt if there was a backhoe or an excavator on site, it could probably be done somewhere between \$1,500-\$3,000. Barstow asked, "But why do you have to do that at all?" "I mean, you are in construction. Have you ever seen that ever done before?" Gill said that he sees a lot of old buildings that are on bad foundations and are coming apart. Barstow said that was old stone foundations that get pushed by the frost and heaves. Chair Cox and Hewlett said they were just trying to prevent safety issues.

Reinhardt was recognized by Chair Cox. He said, "I think you are over stepping your responsibilities. It is not your responsibility that this building has to be engineered by a soil scientist. That is not your planning board responsibility. You are not conforming to Maine BOCA Code, here. St. George does not require to conform to Maine BOCA

Code. Number one: He had a permit from the DEP to fill that – you want to call it the wetland – it is an isolated wetland, it was. He filled it full of rock and fill. He stated he is going to put posts down for it which typically can be done and buried right there, four feet down, and then it can get down four foot which you are going to be back to original soil. You put crush stone under them. It is ridiculous to require him for a two sided Tiki Hut, to go out and have an engineer study on soils there. It is going to run him more than the foundation would cost him to put it in. It is not your purview to do that. You have to be consistent. You have never required that for anybody here in the town, yet."

Chair Cox said, "I believe the only thing we are sticking on and we may go beyond it; I think safety is in our purview but because we know that this has been filled with a lot of things and is wetland and because it is a commercial establishment that you are inviting people into, feel like it should be safe. Now we may end up saying, you do not have to do it but that is kind of a sticking point." Hewlett said, "Especially, once we see a better plan. I mean, truthfully, I mean, one of your site plan shows it one way, one shows another way. Let's do an onsite. Let's make it simple. Why don't we just go walk it?" Minery said, "Go stake it out." Hewlett said, "And if you can stake it out for us, that would be great. I mean, one of these plans has a 20' addition and one has a 16' addition, so I am kind of confused as to what you are trying to do. But, we are here to help you. We are not trying to make it difficult." Chair Cox said, "Absolutely, and we are not trying to be punitive and cost you a lot of money."

Minery and Emerson said you will need State approval for more seats from the State. Emerson said we cannot approve it if the State does not approve the seating. Hewlett suggested he call the health department and tell them what he was thinking about doing and would it be an issue?

Chair Cox said it seemed like a simple, little structure that you but there are some structural questions that arise when you close in some walls, such as the wind. She recommended he talk with someone with an engineering mind about wind blows. Chair Cox asked to include in his project the siding, a clear drawing of what size bracing he was going to use, what size joist, and what size structure. Minery, Howland and Barstow discussed the type of poles and columns he would use.

Hewlett asked if he would have an ice room, because one was mentioned on one plan. Chair Cox said Minery suggested an onsite visit. We also need a clear drawing of what the plan is, and Howland will stake out where the ice house would be, and where the barbeque pits or grills were going to be. Minery said and pre-approval for more seating, and hours of operation of the Tiki Hut. Howland said it would be the same as the deck; everyone goes in after 9 p.m.

Howland said he would provide a better site plan, water usage, DEP sign off letter that he will be sending, and seating. For the onsite, he would mark the parking spaces every 10', have the building staked out. Chair Cox said if the pillars are going to be 8", show them that way on the diagram. Brackett said we should have 8 copies of a smaller version of the new plan.

Scheduling an onsite public hearing was discussed. Brackett asked Howland if he could get all the information before the onsite, and Howland thought he could. The onsite public hearing was scheduled for Monday, June 12 at 5 p.m. Gill said he would not be able to attend the onsite.

Reinhardt asked, "As far as additional information regarding the structure or foundation, are you going to ask for anything? I would like to know that now, because that was what I was here for. Regarding soils, because I am sure Howland does not want to come back here multiple times." Chair Cox said she thought the Board needed a soils test like Brackett had talked about and suggested Doug Meservey. Reinhardt said, "What about a statement?" Minery was concerned about the area filling up with water and said, "That is what it is going to do. It is going to be a pond." Reinhardt asked who would evaluate that? The Board asked Reinhardt if he wanted to evaluate it. Reinhardt said he could provide them with a statement as he was a civil engineer, and Chair Cox, Hewlett, Emerson thought that would be good. Chair Cox asked if he would include a diagram of the concrete piers the building is proposed to set on. She told Reinhardt the Board was being cautious because they knew it was wetlands and it had so much fill.

Chair Cox felt the Board could not accept the application as complete, without the information. Since the application is ongoing, there was no motion needed. The application will be on next meeting's agenda.

There was no further business to before the Board. On a motion by Brown, seconded by Minery, the meeting adjourned at 8:26 p.m.

Respectfully submitted,

Marguerite R. Wilson
Planning Board Recording Secretary