

**St. George Planning Board
St. George Town Office
April 26, 2022 – 7:51 p.m.**

The Planning Board meeting was called to order at 7:51 p.m. Members present in person were: Chair Anne Cox, Jane Brown, Anne Cogger, Mary K. Hewlett, Van Thompson, Richard Moskowitz, and Michael Jordan. Also present in person were: CEO Terry Brackett, Rick Erb, Richard Bates, Melissa Starbird, Robert Cremonni, Gayle and Bruce Elfast, Bill Reinhardt, Philip Reinhardt, Nina Anthoine, Barbara Aras, Nancy Blake, Paul Estes, Gary and Shasta Minery, Greg Howland, Elizabeth Oakes, Ann Snow, Holly Welch, Bert Welch, James Barstow, Fred Morrill, Carol and Marc Sanidas, Joss Coggeshall, Suzy Kane, Bonnie and David Percival, Meg Rasmussen, Steve Scott, Gene Ray, Kristin Falla, Barbara Saunders, Jacob Fongemie, Amy Palmer, Steve and Ruth Jarrett. Present by Zoom were: Kim Sullivan, Diane Hall, Dianne Oelberger, Tammy Willey, Adele Welch, Janet Overholt, Magan Wallace, Van LaLiberte, Nadina Knisch, Beckie Delaney, Diane Speranza, Stephanie Smith, Hunter Hastings, Loreen Meyer, Ben Norton, Suzanne Luzuis, Chris Moses, and Jack Gee.

Quorum: A quorum was present. Michael Jordan stepped down as a voting member for review of The Happy Clam On-site Minutes and The Happy Clam application. Richard Moskowitz stepped up to replace Jordan as the voting member. Jane Brown stepped down as a voting member on The Happy Clam On-site Minutes, and Van Thompson stepped up as the voting member.

Conflict of Interest: Michael Jordan recused himself and did not participate in The Happy Clam application.

Adjustments to Agenda: None.

Review of the Minutes:

Planning Board Meeting - April 12, 2022 – The minutes were reviewed and corrected.

A motion was made by Anne Cogger, seconded by Brown, to approve the Planning Board minutes of April 12, 2022, as amended. The vote was 5-0. The motion carried.

On-Site Inspection – The Happy Clam, 13 River Road, and 24 River Road

A motion was made by Van Thompson, seconded by Cogger, to approve the April 16, 2022, On-site minutes of April 16, 2022, as corrected. The vote was 5-0. The motion carried.

Findings of Fact and Conclusions of Law:

Marshall Point Lighthouse, 178 Marshall Point Road:

A motion was made by Mary K. Hewlett, seconded by Jordan to approve the Findings of Fact & Conclusions of Law for the Marshall Point Lighthouse, as corrected, and to allow Anne Cox, Board Chair to sign the Findings of Fact on behalf of the Planning Board. The vote was 5-0. The motion carried.

Port Clyde General Store Complex, LLC, 2 Cold Storage Road:

A motion was made by Mary K. Hewlett, seconded by Cogger to approve the Findings of Fact & Conclusions of Law for the Marshall Point Lighthouse, as corrected, and to allow Anne Cox, Board Chair to sign the Findings of Fact and Conclusions of Law on behalf of the Planning Board. The vote was 5-0. The motion carried.

Seavey Group, LLC, 258 River Road:

A motion was made by Mary K. Hewlett, seconded by Cogger to approve the Findings of Fact & Conclusions of Law for the Seavey Group, LLC, as corrected, and to allow Anne Cox, Board Chair to sign the Findings of Fact and Conclusions of Law on behalf of the Planning Board. The vote was 5-0. The motion carried.

Public Comments: See the April 26, 2022, Public Hearing minutes for public comments.

Commercial Building Permit/Expansion/Change of Use:

a. The Happy Clam Restaurant, 13 River Road and 24 River Road / Map 105, lot 076 and Map 105, Lot 022.

The application is to add an 8' x 24' food prep trailer and a 12' x 45' open deck on the Outback Saloon and add an attached 12' x 24' storage and sales building on The Happy Clam restaurant and construct a 0.5-acre gravel parking area across Rt. 131.

Howland: First of all, I'd like to address the trees. I planted a lot of trees. It appears half of them (are dead). I didn't know that until we were out there the other day. I looked around and they were all dead. Come to find out the deer had eaten them. But at any rate, I've got a dozen more trees and I've got 75 other trees that I'm putting in the ground. I can plant trees until the cows come home but that's not going to have a deep impact right now.

What we propose: I want to build an 8' fence on the side of the property, behind, and all along the edge. That will shield Watts Avenue and Diane Hall's property. (The Planning Board reviewed the site plan.) And I promise - I had a few of them (people) last year - they get out of hand, and I went and addressed that. But I will make double, 200% sure they are at a reasonable sound level.

Chair Cox: I see you have made some changes to your plan. You show where the propane tanks are going to be, where the storage trailer will be, and the food trailer.

Howland: Regulation codes say you have the propane 10' from the building, which it is, it will be. But it is 10' from an electrical outlet.

Reinhardt: What you see (on the plan) was originally what was approved. That is the Site Plan approved five years ago, in 2017, for the original Outback. The things in orange are what are being applied for now. Everything else is the plan that was approved in 2017. I did not highlight the changes but it's in the notations he proposed. The fence goes all the way around to the rear of the property, which is different, and in 2017 you approved his Outback/Tiki Hut with 3' to 4' high evergreens as put on center for noise, abatement, or shielding. We've come to conclude that one, they don't live right now, especially when he's not around in the winter, and there is no one

to chase the deer away. Secondly, until they (the trees) get very mature (at 6') they are not going to help very much with noise. So, Greg decided to bite the bullet to do better and put a fence in there, in addition to the plantings.

Howland: I'll still plant the trees.

Reinhardt: But the trees aren't going to do the noise shielding that the Planning Board wanted.

Moskowitz: What type of fence is this? Is this a stockade?

Reinhardt: Wood stock, similar to what is there now.

Howland: What's (now) on the side of the office.

Reinhardt: It is going to be 8' high.

Chair Cox: There is an existing fence from the road going back.

Reinhardt: Back to the end of The Clam.

Howland: I need to rebuild those due to the hurricane/high winds.

Reinhardt: He is going to reset that (the fence) and then continue.

Chair Cox: But it will be the same style of a privacy fence? (Reinhardt: Right.) (Hewlett: 8' up.)

Cogger: Is there a fence along the back by the horseshoe corner or not a fence there?

Reinhardt: No.

Hewlett: It will stop in that corner by the mobile storage trailer? In the back corner?

Reinhardt: Correct. At the back corner of the property.

Hewlett: Just to be clear because it's not on this print, do you have the print that is going to go into the record?

Reinhardt: It does say that doesn't it? (He pointed out on the plan, the arrow where the fence would be.) It does not show a fence down on this backside.

Hewlett: I'm just worried that over time these are going to fade, so we should put that on this print if this is the print for the town office.

Reinhardt: Brackett's got one.

Brackett: Yes.

Reinhardt: That one won't fade.

Hewlett: So, is the mobile trailer being added to the application that we have before us?

Reinhardt: No. That was there before. It was in another place this year, and they moved it back there. Someone asked at the site visit to please show it. I'm applying for it; it's a mobile (trailer). It will move again.

Hewlett: Even though it is highlighted, it is not in his application. I'm just making sure that we know what's in this application.

Reinhardt: This is a plan of the deck. You wanted a view of the deck, and it shows exactly how the railing was going to look. You also wanted the plan, view, and elevation views of the storage and t-shirt sales building. Here are the copies of the plan.

Chair Cox: We need some time to study this new information.

Reinhardt: That large plan I did is exactly what you had in the pre-app except that it was highlighted and was asked for in the additional information.

Chair Cox: The trailer has been moved from there, but these are new. I think we will be requesting some other documents, too.

Chair Cox: The Happy Clam and the Outback Saloon were licensed, and the numbers which you were licensed for are different. I've seen 80. I've seen 109. I've seen 123. I'm not sure what your license is but you are licensed for a number, and I want to see the documentation on what that number is. The parking area for 50 would be sufficient for 150 seats per the Kennebec Council of Government of 3 seats per vehicle. So, it should have been entirely adequate for the amount if you were at 123 seats.

As you said, your business has been successful and you wanted to expand, but you have exceeded the parking limit, particularly during your Sunday music events. This has led to the parking issue that you are trying to address. Your solution is to create additional parking across the street. You went ahead and cleared the land for parking, got permits from DOT for a curb cut, and that is something you can do as a residential landowner. Absolutely, you can. But I will say it's rather irksome that you've done this clearing and then came to the Planning Board for approval for a commercial parking lot in that location. I add to that, your desire to add the food preparation trailer which must mean your existing kitchen is not sufficient to serve the number of patrons you have.

Howland: That's not the case.

Chair Cox: But it seems there is expansion going on and you have more people than your parking can allow. However, your parking will be enough for what you have been permitted for. So, you want to increase the volume of your business.

Howland: I've needed an overflow parking lot for 10 years. People in August were parking up and down the street without the Outback.

Chair Cox: Okay. I hadn't heard that. I didn't know that. It seems the real reason you are wanting to do this is you want to expand your business. I think you even said that.

Howland: Yes, I did, and why did I make a hole over there for a parking lot? I am trying to alleviate the problem. That's all.

Chair Cox: I understand that, and I think you have also had experience of filling in the wetland and us saying, 'Whoa, whoa, whoa.' And this was before there was a permit.

Howland: That's not true, though. I had a complete permit.

Chair Cox: So, I will step back from that issue.

Howland: You're listening to the wrong people.

Chair Cox: Okay. That's fine. I'm not talking about that.

Chair Cox: Even with this addition, I don't think that either one of these applications is complete tonight. If you want, we can go through them but I'm not the only one to be speaking. I thought I would get us started.

Some of the things we are missing that are elements of requirements in our Site Plan Review are location of buildings, other structures, wells, sewage, septic system components, and wetlands, water bodies, roads within 300' of your project area. Landscape plans showing location, type, and size of plantings. I appreciate your plan to put a fence in and that you are trying to address the noise issue.

We are also missing the seating plan, including the number of seats on the deck, and the total seating capacity that you are applying for. On the parking lot side, a Site Plan to include information about water run-off, the grading, and the flare at Rt. 131.

Chair Cox: There have been some questions raised about the septic system, and I believe CEO Brackett had some conversations with people from the state. (Reinhardt: As did I.)

Chair Cox: So, we will need some resolution of what that is.

Reinhardt: I thought that was what we are here for.

Chair Cox: Well, I am going to want something written and I am going to want to know what the resolution is.

Reinhardt: Who do you want it written from? All of these things that you are throwing out here, were all approved five years ago as far as drainage, parking lot layout, and everything. You have that. We're not changing any of that other than what we have highlighted as far as his plans for the expansions. That's all. The drainage was issued. There's nothing changed in that. So, some of the things on your list are really not applicable to this application.

Chair Cox: That's you're feeling on that.

Reinhardt: We don't need to re-apply for everything for the whole Happy Clam facility.

Chair Cox: No, but what you will need to do is to account for additional surface area. We need to make sure we are not, by adding additional coverage, creating any problems. We have not talked about this as a Planning Board, but I have reservations about treating the food prep trailer and the storage trailer as mobile, temporary structures. A food trailer is something intended to be moved regularly, and we had a little slip because you said it wasn't going to be moved and then you said, oh, no it will.

Howland: I don't believe either one of us said that. (Starbird: It's not a slip.) It's a mobile unit.

Chair Cox: I understand that it is mobile, but it is intended to function in the same manner as a kitchen. This is how I see it; the rest of the Planning Board may see it differently.

Howland: May I just say that this was a suggestion. I was going to build a kitchen. I wanted to build a kitchen. I came to the town and said I want to build an additional kitchen back there. We want to have a different function of food back there, and the Health Inspector and your town's people both said, "Greg, a food trailer is your best bet."

Chair Cox: So, it is still being treated as a kitchen (Howland: Yes), and it is intended to function in the same manner. The same with the storage trailer. Our Site Plan Review definition of structure is "anything built for the support, shelter or enclosure for person's animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground exclusive of fences. The term includes structures temporarily or permanently located such as decks. It does not include driveways."

Chair Cox: It seems to me that while these two trailers may be moveable, they are not being treated as such and the use to which they are being put is just like the use of a building.

Reinhardt: That is just your opinion. We got an opinion from the Code Officer and Greg talked to the Health Inspector, who said a mobile trailer that has moved is perfectly agreeable/fine. In fact, I originally had it on a plan, and it conformed with the 20' setback, but at the site visit Brackett said it did not need to conform with the 20' setback if it is registered and moves regularly, and that's why I moved its location.

Chair Cox: I respectfully have a different take on it, and I think it has to do with the use to which it is being put. I need to be convinced otherwise and certainly, the mobile storage trailer that is parked back there isn't going to get picked up and moved. I guess you would have to move the mobile food trailer in order to move that. It feels like we are doing an end-run around the setback issues with this.

Hewlett: Maybe there is a compromise that at the end of your season, they both move somewhere else. Maybe to your house.

Thompson: If I recall, there is something in defining a mobile structure in the ordinances that says it must be moved within 120 days. I've got to pin that down.

Chair Cox: I think that has to do with recreational vehicles.

Hewlett: I'd like to address the water issue. I had never been in the horseshoe/corn hole area, but the area was soaked the day we did the on-site. I do think there might be a drainage issue that you would want to address because you might like your patrons to use that area.

Reinhardt: It was April and mud season.

Howland: It does dry out and there is drainage under there. There are two drainage pipes.

Reinhardt: Two, 4" pipes.

Howland: And then there is drainage from the DOT hole to the back of the property.

Chair Cox: Are these marked on the plan?

Howland: It was always like that since day one.

Hewlett: As I say, I've never been back there but at the site visit, my shoes were a little wet afterward. I am just concerned that if you are going to have horseshoes and cornholes back there that you can use the area.

Howland: Maybe I can put a couple of loads of dirt back there.

Chair Cox: Are those drains? I don't see the drains marked on this plan.

Howland and Reinhardt: They've been there.

Chair Cox: I know they've been there.

Reinhardt: That's the DOT drain that comes across Route 131, and the culvert goes out and empties into that pit. He has to maintain it, and that was discussed five years ago. That is why he has that opened and blocked off. He has underdrains that go out to the ditch Diane Hall was talking about and continues behind Hale Miller's.

Chair Cox: So, the ditch comes here?

Reinhardt: Right along the front line, right up and around, up into the swamp.

Howland: When we get a lot of rain, it does overflow in back where the horseshoe area is.

Chair Cox: But does it ever flow to the DOT drain?

Howland: No because there is drainage.

Chair Cox: Related to that, it felt like a rather unsafe sort of thing even though you've got the rocks around it. I could imagine a kid climbing on the rocks and splashing into that water.

Howland: I tried to cover it up once, and the DOT won't let me. But what I've done, is I've got a water pump for that, actually a fountain pump. I have it right there. I just haven't hooked it up yet.

Chair Cox: So, that you've turned it into a fountain?

Howland: I don't want anybody falling into it. I've put lights around it. I've done all kinds of things.

Chair Cox: I suggest maybe putting some shrubs or bigger boulders, something with a little more height so it will say, "I'm here."

Reinhardt: Five years ago, when we had this application, someone called the DOT on their own, I'm not saying who, but somebody called. They (DOT) came down, inspected it, met with us, and someone from the DOT said that is our drainage, and we want to keep it open. That is what they said. Apparently, they have an easement there.

Chair Cox: It does raise some safety issues in my mind.

Hewlett: The parking schematic is great, but the only problem is, that it is not what people are doing because they have no idea that you can even park towards the deck area. Along this existing fence, yes. Truthfully, I don't know what the solution is, but I can promise you, as a patron, I had no idea you have 11 spots along the (the deck) area. I understand these parking spots (along the fence). I've seen them being utilized. I've never seen these along the deck being utilized correctly.

Reinhardt: When it is really full. Yes.

Howland: And I even walk out there and ask people to tighten it up.

Chair Cox: It is possible, and I believe the Craignair Inn has put striping on their gravel parking lot. I think it is possible to do that.

Hewlett to CEO Brackett: Are you satisfied with the number of seats?

Chair Cox: I have no idea what it is.

Brackett: I think it is 109 now.

Chair Cox to Howland: What is it?

Reinhardt: We have two different numbers. One is from the last application in 2017 that CEO Brackett noticed and signed off on the septic system which recognized 85 seats in The Clam/Clam deck and 24 in the Outback which makes 109. Then we have another reference and I think it was in the Planning Board minutes of 120.

Chair Cox: Where would we have gotten that number?

Reinhardt: I have no idea where that came from.

Chair Cox: Do you have the certificate that tells you what it is? (Reinhardt and Howland: Yes.)

Brackett: From talking with the Health Inspector, I believe they are licensed for 109 (seats).

Hewlett: So, part of your application is to expand the seating?

Chair Cox: And you want to expand the seating to what?

Howland: Add 35.

Chair Cox: Where was the number 200 that was discussed?

Howland: I asked but 35 will be adequate.

Chair Cox: So, 35 would be adequate.

Hewlett: So, you are going to give us a schematic?

Reinhardt: This is from the permit in 2017 for 85 seats at The Clam and 24 seats additional in May 2017.

Howland: Fifteen years ago, when you were on the Board, Kate, you asked me how many seats and I think we came up with the 80 seats and you said, 'Well, those float because people will be in or be out and use all the seats all the time or you don't.' And that is the way it is at the

Outback, too. There might be 109 people when we're out there and there's nobody upfront. Yeah, they use it, and they do float.

Chair Cox: It would be a total of 144 that you would be licensed for and that would include the 35 additional seats that would be on the deck.

Brown: Because of the picnic tables that are out in the yard.

Chair Cox: Will they go away?

Howland: Well, yeah.

Chair Cox: The picnic tables will disappear?

Howland: I was going to put them on the deck.

Moskowitz: So, you would not have any seating on the lawn?

Howland: No. I've always had.

Reinhardt: Some have gotten lawn chairs and stuff out there. Right now, he has picnic tables.

Howland: People bring their own chairs sometimes, too.

Hewlett: Would you be serving food to those people?

Howland: Well, they would be buying food, I guess, out of the food truck.

Moskowitz: So, shouldn't that be counted as seats?

Chair Cox and Brown: Yes.

Hewlett: Yes, that is why we need a schematic. Because technically, those would be seats.

Chair Cox: But you've got picnic tables out on the lawn, still. Those would be seats. You've got 35 additional there, so additional lawn chairs would put you over your licensed number.

Brown: Because the picnic tables were not ever in the plan.

Hewlett: Any plan. And they are still not in any plan. We need a real schematic.

Thompson: They are on the deck.

Brown: They are now but they were on the lawn before and there was never, ever any accounting for those.

Chair Cox: You are going to get 35 seats "worth" on the deck.

Reinhardt: Terry Brackett and I have to talk about the maximum capacity of the septic system. He's licensed and designed for 1725 gallons per day and that is a system we put in before Greg bought it; it was all kosher and approved for 1725 gallons a day. He has a water meter, and he has 12 years of data on that, and he has never exceeded more than 600 gallons a day. He's only used about one-third of the capacity and that was even after the Outback was approved. That was last year's (amount), our busiest year.

Brackett brought up some good points after having talked with the state plumbing inspector. I called Health Engineering today and tried to talk with Brent but talked with another person.

They are going to look into the issue, and the fact that we have an accurate water meter because they have guidelines that are a lot higher. He is only using 5 gallons per seat per day.

Chair Cox: So, we will need to have some resolution on that.

Reinhardt: That will determine what he wants for a maximum seat capacity.

Hewlett: Which makes sense. Keep in mind that this is new information to us.

Reinhardt: That just came at the end of last week.

Hewlett: I don't remember that there was a stage approved for the Outback build-out. I remember that there was a circular bar with 24 seats.

Reinhardt: Look back. There was not a depiction in the original plan though they had the semi-circular bar. But that little corner that was open with no seats was not determined as being raised. He has a slight raise there but that is a real minor issue we are talking about.

Hewlett: Except that we also didn't know music was coming (Reinhardt: Well, it's a bar.) to the Outback.

Howland: Oh, yeah.

Hewlett: Live music was not discussed.

Chair Cox: No.

Howland: Would we have music? Would we have videos? I said yes, absolutely.

Hewlett: Not thinking that that was discussed.

Howland: I remember the Board asking me and I said yes.

Hewlett: So, it should be in the minutes.

Reinhardt: I've read those cover to cover and it was a Tiki bar application and all that goes with it, and I don't see any specific thing about - there is no mention about music or videos; it doesn't mean he (unintelligible), and I remember that.

Hewlett: I know there was a question about noise because we wanted to know if the doors or windows could be shut if it got loud which I'm not sure that is done.

Reinhardt: Oh, yeah, everything can be closed. Right now, it's shut right up.

Hewlett: When there's music, you have the door shut?

Reinhardt: Oh, I'm not saying. It's not shut when there's music playing. No, I'm saying they're shut... The question was whether they could be shut? (Cox: Right.) And they can be shut. Calm down.

Chair Cox: I want to say that I, too, have been looking at the old minutes. On the June 13, 2017, as far as any music, Howland said, "The restaurant is not a place for bands or this or that." Then he said, "East Wind has music, the Dip Net, the town, everybody's got music once in a while." "So, once in a while, but is not a place for bands."

Howland: I think somebody asked if we were going to have music in the Outback.

Chair Cox: Asked about music and you said yes, it would be similar to what you had on the deck of The Clam. But you did say it was not a place for bands.

Howland: Upfront. That is why we built way out back.

Hewlett: No, this is regarding the Tiki Hut.

Chair Cox: This is in reference to the Tiki Hut. The conversations about that.

Howland: That was the whole purpose of the Outback.

Hewlett: That was never mentioned in the application.

Chair Cox: That was never made clear that the whole purpose was to have ...

Howland: To move entertainment out there. It did not fit any.... There's a restaurant upfront.

Hewlett: It is supposed to be an addition of a barbeque because at one point you were speaking about having a smoker (Howland: I was going to at one time.) and all you said is you wanted an additional restaurant out back.

Howland: Well, I have a restaurant, yeah.

Hewlett: Originally, it was called the Tiki Hut.

Chair Cox: But just by way of saying that having a raised area for a stage was not part of the original (plan) even though it may be minor. So, clearly you had something in mind about some entertainment that was not communicated in the original (application).

Howland: I specifically remember them asking me about that.

Chair Cox: During the time for public comments.

P. Reinhardt: There were just remarks about the shades. If you don't want me to speak, I won't speak.

Chair Cox: Or whether they can go up or down, and I know they can.

P. Reinhardt: I'm just saying that I have been there regularly on weeknights and at 9 p.m. Missy Starbird will go down and religiously, on weeknights when I'm there and lower those shades. Just saying.

Chair Cox: Thank you. What we are trying to do is raise things that we feel we need to have in writing as part of our plan so that we can look at all of the elements of the Site Plan Review. I hope you are taking some notes and we will be taking some notes.

Reinhardt: I haven't gotten anything yet other than I met Brent and with Brackett about the septic system. I haven't had anything specific.

Reinhardt: I would like to have a list.

Hewlett: What has happened in the past which is extremely helpful especially if you want to keep this rolling and get it to fruition, is that people will take the 20 Performance Standards under the Site Plan Review and answer every single question. Hours of operation are an example. Once you start an application, we are going to start reviewing every single one of them again.

Reinhardt: If we are not having any changes from five years ago other than what we show, he hasn't mentioned how his operation, even though we have a bone to pick with you on that, but if they are not changing, do you have to have that again? We have to go through the 2017 Performance Standards?

Hewlett: Well, we are going to need the answers to them. You're looking at a group of people that have never reviewed an application for this one particular commercial project.

Reinhardt: So, we will answer that question.

Hewlett: But it is very helpful to start from the beginning. Go from number one all the way through. If you want to try to move this along, otherwise we are just going to keep going back and forth.

Reinhardt: Well, that's an endless list. If you want that, I want the list.

Hewlett: I think it is actually very helpful for you and us because that is what we are going to review.

Chair Cox: So, we have mentioned a number of things. The seating plan, including the number of seats on the deck and not on the lawn.

Reinhardt: Anne, the seats are on the plan for the deck (based on picnic tables) and there is not a number on that. What we will do when we resolve the septic capacity, is we will keep the number they show on the deck and if there is any additional, they will be on the lawn.

Hewlett: There is no number on the deck.

Reinhardt: There are five picnic tables at 8 seats a table.

Chair Cox: It is not on the plan.

Reinhardt: It is on the sheet.

Chair Cox: It is on the sheet, which he (Reinhardt) has.

Hewlett: Which we do not have.

Thompson: Which is certainly not to scale but it's okay.

Reinhardt: Well, there's 30 on the deck.

Brown: That doesn't have to be licensed by the state? How many seats?

Chair Cox: Yes. Once the water issue is resolved then the state will be able to say what that is. We will need that information to understand it fully.

Reinhardt: I apologize to you but that didn't come up until just a couple of days ago with Brackett's email to us about this because we were so far under the capacity of water usage, we did not believe as we stated in our pre-app that it's an issue. But Brackett said we've got to follow these steps even though we are only using one-third of his septic system.

Moskowitz: Just a clarifying question and I am not sure who can answer this. Is the capacity of the septic system dependent upon just the volume of water or the number of seats and people who may be using the facilities?

Chair Cox to Brackett: Do you have an answer to that?

Brackett: I would say all of the above.

Moskowitz: Okay because I've heard the number of seats drive the capacity of the septic system, the volume of water. So, just to make myself feel more comfortable, I like to know all the factors that need to be considered as part of the application.

Reinhardt: I will try to explain a little bit. (Chair Cox: Yes.) If you are starting from scratch, they have state guidelines in capacities, they have per seat per restaurant, industrial facilities, even have for gas stations and they have a gallon per day per seat or gallon per day per occupant. That is just what it is. It is a guideline. If you have accurate measurements of water usage, in this case, he has a water meter, all the water that goes in and goes out and he has a design for a septic system that is installed. They do allow the water usage as the definitive because if you go by the guidelines on this septic, the guideline is between 20 and 30 gallons per day, per seat.

That is a guideline if you were designing a septic system and that is what most designers do. But where he has a (and there's a lot of restaurants that do not have water meters) meter, they can go with the water meter data which is actual usage. He has 12 years of water meter usage they can submit.

Chair Cox: You had a question about what other pieces of information were missing and I think we have tried to flush out a few. One is, let's get this septic thing totally resolved. Another is to get the seating resolved. Look at the list I gave you and what the ordinance asks for to make sure everything that is on there is included in your application. That is your checklist.

Reinhardt: We did it five years ago.

Chair Cox: Do it again.

Thompson: Did it five years ago. Do a little update on it; it helps us.

Chair Cox: Do it again.

Brown: Some people were not on the Board (five years ago).

Chair Cox: Some of the people weren't here and you are doing some changes.

Hewlett: You can also go back to the Findings of Fact and Conclusions of Law and update those.

Chair Cox: Hewlett suggested you look at the 20 Performance Standards and see how you fit in that. I would like to look at the parking side of the property now.

Hewlett: Can I say one thing about the fence on The Happy Clam side. I think that is a great solution.

Howland: I am honestly trying.

Hewlett: That is a wonderful solution. Would you consider, as money allows, continuing onto the backside and making that a compromise at some point in time? You pick how soon. I would like to put that in, also.

Application #2 for:

The Happy Clam Restaurant, 24 River Road / Map 105, Lot 002

The application is to construct a 0.5-acre gravel parking area for overflow parking for Mr. Howland's business located at 13 River Road.

Chair Cox: What would you like to tell us about this application?

Reinhardt: Other than what we submitted in the pre-app? The only question at the on-site inspection visit that I wrote down and that I heard was they wanted to know where the drainage was and how the drainage was going off the parking lot. I added some arrows where the drainage goes. It goes to the DOT roadside ditch and culvert and catch basin. It goes across the road into his other property.

There was a comment about where the pedestrians would be parking and crossing (the road), and Greg answered that they will be walking out the end of the access road, and it is going to be 30' wide, and that is plenty wide for two cars plus pedestrians, and they will walk across the road.

Chair Cox: Do you think there is going to be an additional load on the drainage off the overflow parking into the culverts?

Reinhardt's: No because it drains down.

Chair Cox: But you are creating a compacted surface that is going to change how the water drains.

Reinhardt: He's going to use crushed rock.

Chair Cox: It is going to change the drainage, some. I would imagine, you are going to have more runoff.

Thompson: It is already ledge, isn't it?

Howland: There is ledge here.

Chair Cox: I have to tell you; I'm really wondering about a lot of things with this. I am wondering about the sightlines, looking both ways coming out of the drive.

Reinhardt: DOT checked that, and they gave him a Commercial Road Opening Permit.

Chair Cox: I am wondering about the separation of this driveway versus the opposite driveway of The Happy Clam.

Reinhardt: DOT wouldn't (unintelligible) for an opening from an entrance permit road and without proof (**unintelligible**).

Hewlett: Does DOT understand that this is an overflow for a bar and a restaurant?

Reinhardt: Correct.

Hewlett: They were fully aware of that? Are they offering to do a pedestrian crosswalk?

Howland: They might. I haven't asked them.

Brackett: I didn't think that they wanted to go down that road. If you ask, they might.

Howland: I haven't.

Chair Cox: I am wondering about the true speed of vehicles at this point. I believe, Greg, you laughed at the on-site when we said it is posted at 25 mph here, and you said, "Yeah, right." We've got that factor.

Howland: That is why I offered to get a sign. I would buy it. (Reinhardt: DOT won't let you.)

Reinhardt: Not a traffic advisory sign. They will not. You can try and ask for it.

Chair Cox: I am wondering if we don't need to fully understand the safety issues because people are going to be walking diagonally and the exposure is greater and there is a curve here. I am wondering if we need a traffic engineer to just look at all of the issues that are going on here.

Unidentified person: The traffic engineer did look at it.

Moskowitz: Did the DOT provide a report on their findings and recommendations?

Chair Cox: May we see the DOT report?

Reinhardt: The permit? It's not a report. It's a permit.

Chair Cox: To understand entirely, may we see a DOT report because I am not grasping at things, Bill. I am concerned about safety, here. I am concerned about public safety. I am not grasping.

Thompson: Would it be helpful if there was some defined walkway that outlined that more directly. Is it possible on that property?

Reinhardt: He owns the house next door. If that is something you would like, we could probably put a path through his rental property, directly to The Clam.

Thompson: That would bring it to the point; you're not going diagonally across the road.

Reinhardt: They don't have to go diagonally across the road because his lawn is directly across the road. It is right straight across.

Thompson: I think the tendency is to get right to the driveway.

Howland: Well, actually, most people don't. They go straight across.

Hewlett: So that is one issue. The other issue is the buffer between the backside of the Watts Ave properties. From what I could tell, the 20' and 10' trees were knocked down.

Howland: No, there's a 20' line.

Reinhardt: There's a 23' buffer left because there are (unintelligible) **problems**, and he's going to plant more trees in that 20' buffer.

Reinhardt: There is nothing that says they have to have trees there, but he's offered to put in some more trees. All the trees that were cut were big ones.

Hewlett: It buffers.

Howland: In that 20 foot?

Chair Cox: Here's the thing. Part of our Performance Review has to deal with preserving and enhancing the landscape. You have already not preserved it and the relationship of the proposed construction to the environment. So, if you are thinking that you would like to do landscaping, and planting trees, that's great. I want to see an exact plan. How many trees? Of what sort? Of what size? Because you have not proven to be very good at planting trees that will live.

Howland: Not for a lack of trying.

Chair Cox: I get that.

Hewlett: An example of a very good town buffer would be Ancho Honey where we asked them to please make a barrier so that when people pulled in and it was dark, the headlights were not going right into the pastor's house. So, those trees for some reason have done very well.

Chair Cox: Those are western arborvitae which deer tend not to eat.

Hewlett: But that is an example of when we want a buffer and we request a buffer, which is in the ordinance, that is the type of buffer that we are looking for. So, when my headlights shine into Watts Avenue at whatever time, they are not going to go into the backyard. Or the other alternative is a fence.

Chair Cox: I would like you to figure out what you would like to do to address that issue.

Hewlett: You might want to think about it on your side, so you are not bothered.

Hewlett: Signage. There apparently is going to be a sign.

Chair Cox: Right. One small, temporary sign.

Reinhardt and Howland: An easel. It would probably only be there on the weekends.

Chair Cox: Do we need to understand more fully the traffic ramifications?

Brown: It would be nice to see the permit.

Chair Cox: We would like to see the permit or the report.

Howland: I have not gotten it yet. They told me I had it, and they were mailing it. I may have gotten it today, I don't know.

Chair Cox: A detailed plan for the buffer of the parking lot.

Howland: So, there are 20 feet, already.

Hewlett: But when we were at the on-site, you can see into everyone's back yards.

Howland: Right. Well, the leaves aren't out yet.

Hewlett: I'm not sure if you want to try to buffer your house, too, because you are going to be affected by it. That's up to you.

Brown: The other question is, is it just for parking, or is there going to be overnight parking?

Howland: Overflow parking.

Chair Cox: That was a question. So, no overnight parking.

Howland: Not intentionally, no.

Chair Cox: If somebody broke down, okay.

Hewlett: Or if somebody shouldn't be driving.

Brown: I was thinking more on the lines of RVs and motorhomes, like that.

Reinhardt: If someone stops and goes in that parking lot like an RV (Howland and Reinhardt talked at the same time.)

Brown: Overnight is what I was asking about.

Howland: I've had people that insisted and stayed there for a while in my parking lot or whatever, you know. In some cases, I've thrown the keys in the back, whatever, you know?

Reinhardt: It is not going to be a campground.

Hewlett: There is no electrical outlet. There's no septic hook-up. Okay.

Moskowitz: You're not considering that staff may park there overnight in their RVs and spend the night there as opposed to some type of housing?

Reinhardt: Staff housing?

Moskowitz: I am saying that if some staff needed a place to stay.

Howland: No, we have facilities for that.

Moskowitz: You would not plan to have any staff overnight there?

Howland: No.

Hewlett: I think the striping just so people realize they can park right down the middle, somehow, designating parking. Once people figure it out, it will be good, but it takes a while to figure it out.

Chair Cox: Is the Board happy enough seeing what the DOT engineer has to say about traffic there.

Cogger: The visibility would be my concern. The visibility coming out of the overflow parking lot and turning left.

Chair Cox: And if we are not satisfied that that information is clear, then we may need a traffic study.

Howland: Yeah, okay but I believe that's what they do.

Reinhardt: They come down and measure it and see whether it is applicable to their standards.

Chair Cox: The reason I'm being hard, is the burden is on you to convince us. To show how you are meeting all the Board's requests.

Hewlett: Pedestrian circulation is one of our criteria. It is one of the twenty points and at this point, I am not feeling that it is being met. I'm not feeling comfortable that people after leaving a bar have to walk across the street to get to their cars. I just want to make sure it is as safe as possible.

Howland: It is a 25 mph zone, as you know.

Hewlett: I realize that is not your issue.

Chair Cox: No. No. I think it is a reality that becomes an issue here.

Chair Cox: I do have a question. We recently had a speed limit sign and is there data that gets collected from that? That would be accessible?

Erb: I have asked that question and I can't get that data. I wish we could. I could pursue it further.

Howland: That is exactly what I offered to buy.

Reinhardt: What would that tell you?

Chair Cox: That would tell us that people are going more than 25 mph and that maybe we need more signage or maybe we shouldn't have a parking lot there.

Reinhardt: Well, I don't know about that, Anne. But if that was your personal decision, you'd have to talk with DOT if they need more signing or not there.

Chair Cox: We have to do something.

Hewlett: I would assume the reason you went to the DOT for this parking lot was to explain to them that you're having an overflow issue with your restaurant facility across the street and that was the purpose of having this lot. So, that will show us on the permit that DOT took that into consideration with their sightlines and all of this driveway configuration.

Reinhardt: He already had a residential driveway entrance permit but when he decided to put a parking lot to address the parking issue on the side of the road, he went back to the DOT and upgraded it to a commercial entrance. They came down and talked while (unintelligible), and they also talked (unintelligible). I didn't talk (to them), but they said that was approved. They looked at it. It was fine and he's got something in the mail. Now whether they actually came down again after issuing the residential one, I don't know.

Hewlett: And I would think that they probably have some recommendations in their approval on how to get people safely across the road. But we don't have that information.

Chair Cox: But we need that information.

Howland: I was going to look at my text from him but basically because I asked where the permit was and asked if they email that or mail it and he said, "We mail it."

Reinhardt: If you want and if it does any good for you and you are going to use the information, I can go up there and do a sight-line determination because I don't know if they did that. I assume they did but I can go out there and do a sight-line determination and tell you it is x amount of feet until you can see a car coming southbound or whatever. I don't really know if that is going to be illuminating to anybody here or not.

Chair Cox: That is where we need somebody skilled in these matters to say whether this is entirely acceptable or not.

Thompson: Or something is wrong or something from them that said they took that into consideration.

Hewlett: It should be on their approval.

Barstow: Most everybody knows we had a tragic accident on our dock. We asked the DOT to come down and put a sign like one in Belgrade Lakes, a blinking sign that says, slow down and when you get too close, the blinking yellow light goes faster and faster and faster. They wouldn't do it. The other thing is right in this room, the DOT said we do not dictate to the public certain (unintelligible) and that's as far as they went.

Chair Cox: It would be good to see this move along and schedule it for Tuesday, May 24, 2022. Hopefully, we will have all the information by then and determine if the application is complete. I said tonight that once we accept the application as complete, we will be able to have another public hearing and suggest we have the public hearing immediately following our meeting.

Hewlett: It would be helpful to get the information before the meeting. We need to study it.

Chair Cox: We must have the information to review, and the information needs to get to the town office a week before the meeting.

There was no further business to come before the Board. On a motion by Cogger, seconded by Brown, it was voted 5-0 to adjourn the meeting at 9:11 p.m.

Respectfully submitted,

Marguerite R. Wilson
Planning Board Recording Secretary