

St. George Planning Board Minutes

Jun 16, 2022

7PM at Town Office and via Zoom

Open Regular Meeting - The Planning Board meeting was called to order at 7:00pm.

Planning Board Members present were Chair Anne Cox, Anne Cogger, Richard Moskowitz, Alison Briggs, Michael B. Jordan, Jane Brown and Mary K. Hewlett. Also present: CEO Terry Brackett, Richard Bates, Van Thompson, and Town Manager Richard Erb.

Present via Zoom: Magan Wallace, Jane Matthews, Marguerite Wilson, Stephanie Smith, Loreen Meyer, Kristin Collins, Dianne Speranza, Suzanne Luzius, John Hoff, and Mary Costigan.

Quorum:

A quorum was present.

Conflict of Interest:

Michael B. Jordan has a conflict of interest with issues regarding The Happy Clam and The Outback applications and recused himself from voting.

Adjustments to Agenda:

Minutes were not reviewed at the meeting. Chair Cox proposed that either Terry Brackett or a member of the board review minutes with the Recording Secretary. Michael Jordon volunteered and will review the minutes with the Recording Secretary.

Public Comments:

There were no public comments.

Building Permits:

1. Residential Building Permit for Jeff and Lizbeth Thalheimer - Reconstruction of existing residence due to fire (219 Otis Point Rd. Map 217 Lot 039).

The home was burned down in a fire and was a total loss. Drawings of the proposed building were submitted, as well as previously approved unexecuted plans from 2020 and plans from the original structure. The footprint of the building is changing from 1054 square feet to 1052 square feet. The height of the proposed new house is not higher than the original house. The new house will not be any closer to the water. The Shoreline Zone District is Marine Residential and the Floodplain District is VE80-13 and must be listed on the application. Map number is 217 and Lot is number 39. Michael Jordan pointed out some discrepancies between square footage on this application versus the previous application. The property owners advised that discrepancies are in part due to swapping decks and ramps for living space in the process of upgrading the house. Some corrections to the application are required. The garage and shed square footage must be added to the square footage of the house to reflect the total square footage of building space on the property (1536 square feet). Terry Brackett will double check the total square footage of all buildings and the driveway to verify the lot coverage percentage. The application needs to reflect the building as year-round, not seasonal as it currently states. The site drawing provided was from the original home application and may need to be adjusted to reflect true setbacks from the water. A site visit was determined to be necessary due to the lack of accurate site drawings and a site review meeting was scheduled for Jul 7, 2022 at 5:00pm. The application will next be reviewed during the Planning Board meeting on July 12, 2022. Accurate drawings are to be submitted to Terry Brackett.

2. Commercial Building Permit: Greg Howland, The Happy Clam Restaurant (new deck, sales/storage addition, seating expansion, 13 River Road, Map 105, Lot 076).

3. Commercial Building Permit: Greg Howland, The Happy Clam Restaurant (Overflow Parking Lot, 24 River Road, Map 105, Lot 2).

Jordan having previously removed himself from consideration of the application, Moskowitz was elevated to voting status.

Chair Cox advised the board that additional requested information had been received from the applicant. She proposed that the board proceed by first determining whether the application for the restaurant project on Lot 24 is complete and separately determining whether the application for the parking lot project on Lot 2 is complete; and, assuming they were determined to be complete, that the board recess and open a public hearing on the applications. There was no objection to this procedure.

On a motion by Cogger, seconded by Moskowitz, the board voted 5-0 to accept the application for the restaurant project as complete.

The board then turned to the application for the parking lot project. Chair Cox stated that additional information had been received on buffers and a new plan for the lots, and asked whether any other information was needed.

Moskowitz: Just a query. I know the berm is slated on just one side of the parking lot. Is it not necessary for a berm to be on the other sides of the lot?

Howland: That's all my property.

Reinhardt: That's all his property.

Chair Cox: He owns it. It's wooded around his property and there's a line on the drawing that shows where his house is located and he owns the house where the walkway goes by. We can

visit that question with some additional screening, but this is your proposal and they have said that they will keep a permanent 30 foot wide undisturbed wooded buffer zone. Your four feet high vegetated earth, conservation mix, multiple tape, native evergreen species, primarily spruce, one to two feet high will be planted randomly. Maximum 10 foot spacing along the base of the berm. We have a plan for the berm Is there more information that we need (sic).

Hewlett: But one thing I didn't notice, I think on the DOT drive, it said that the entryway had to be paved depending on the slope. Is that true or not?

Reinhardt: Depending on the slope of it, usually they require the apron to be paved to the R.O.M. line.

Hewlett: That will be paved to the edge of the right-of-way. We could add that.

Howland: When we're almost back to the culvert.

Hewlett: Just add that.

On a motion by Cogger, seconded by Moskowitz, the board voted 5-0 to accept the application for the parking lot project as complete.

Chair Cox called the meeting to recess at 7:38pm in order that the Public Hearing on the Happy Clam Restaurant applications could begin.

The Public Hearing was closed at 8:12pm and the Planning Board resumed at that time.

Hewlett

I need time to read this letter.

Chair Cox

I need time to read the letter and absorb what is in it. We've had a few suggestions that are included in this letter regarding the question of pedestrian safety and have been told that it was not necessarily reviewed by the DOT. We need to consider if we need an independent person to look at it. I do not believe we'll decide on the applications tonight. We might decide about the need for an independent study on pedestrian safety. A primary thing that hasn't happened is the requested landscape treatment softening. The trees that you planted didn't survive and that is a requirement. It will take more than just your word. It will take our code officer to go and investigate. The trees that we specified must be planted in 2017 were three to four feet. They would have grown to be at least four feet by now or even taller.

Howland

I was not in violation. Those trees died over the winter.

Chair Cox

It's the point of being a good neighbor and enhancing the landscape. Part of the site plan review is to ensure the landscape is maintained and enhanced appropriately.

Howland

The fence will help block the sound.

Chair Cox

Sound will be generated regardless and that's where I run into problems with the expansion, and I think the Outback has morphed. You found something successful that people really like and that's great, but it feels like it has morphed into something that is beyond what you were originally permitted for and the problem that you are trying to fix with the application for the parking is something that you created with increased usage. You agree to have enough parking for 142 seats, what you don't have enough parking for is a lot of people standing around. The first Sunday that you had for Sunday Funday, counted something like 86 vehicles at one point. 46 at the Happy Clam, many on the roads and in various places. Even if only two people came per vehicle, you would have been in violation, and you were not even permitted for that yet. You were doing an event that generated more activity than your occupancy is allowed for. And that also raises the question of the fire marshal.

Howland

We are good. The fire marshal has been there.

Chair Cox

I'd like to see that you are cleared for having the numbers of people that you have.

Howland

You've got it in your file. In 2017, the fire marshal person signed off on that.

Chair Cox

The current numbers are not what you applied for in 2017 so I would like to understand if this approval was in 2017 or if it's current.

Howland

There is a new building.

Briggs

For the restaurant, there is an allowable headcount inside of 142 but if you have 180 people including the outside, then what?

Howland

It impacts the sewer system, not the fire marshal.

Howland

It's a building code. The fire suppression system and safety systems are all predicated on how the building is built. Like I said, we submitted those plans to the state, and they said, "You guys are golden", and signed off and sent it back.

Chair Cox

For that number of people inside. Okay.

Howland

It wasn't based on number of people. It was on number of seats, the building the way it was constructed.

Brown

I think if you are licensed for 142 people, that's what you should have.

Howland

Well, that's based on the health code and the septic system but not capacity.

Chair Cox

Is the number of restrooms you have sufficient for 142? What about when you have 180 people on Sunday Funday?

Howland

Well, everybody takes their turn.

Chair Cox

Right. But there must be standards, when you have so many people on site.

Bill Reinhardt

The only reason that Greg Howland applied for the additional 33 seats is because of the Department of Health rule that if you are under a 10% expansion of your real usage, you don't have to get another septic system, just a backup septic system design. If you're under 25%, it is required to obtain a design, but you don't have to install it. If you are over 25% one must obtain a design and install it. So, the 33 additional seats from what he was permitted for in 2017 came about solely because he does not have to get a designer. It's not a magic number that was pulled out and voted on.

Chair Cox

But for whatever reason, it's the number that you are licensed for.

Howland

But it is a license with the Department of Health.

Chair Cox

I understand. But what I'm what I'm saying is there are more people on the premises than the 142 allowed.

Hewlett

Yes, it is always based on seats. I think part of the issue too, is that we've heard that people can bring their own lawn chairs during Sunday Funday and that currently they're occupying the picnic tables that are in the playground area, which makes sense because it's a nice place to sit. But now you're going to take those picnic tables and put them up on a deck. Well, that's going to create a whole bunch of space for lawn chairs. When I drove by, there were more than 24 people standing in the Outback, inside the building

Briggs

You mentioned picnic tables. I didn't know that people could be seated at a picnic table. Does that count toward the 142 number?

Howland

We included that, It's so many seats inside the regular Happy Clam, so many seats inside the Outback, but then you are also counting how many people could usually be sitting at a table.

Briggs

If I pull up to pick up my takeout, you know, my car is there for a minute and then right out, so I understand there is some flow.

Chair Cox

I'd like to confirm information with the fire marshal. I understand you're permitted and have been checked off for the usage inside the buildings but is there something that comes into play when there are more people outside, if there is a fire and more people panic. Also, the issue raised with the DOT is an open issue. I am feeling that I would like to have somebody look at that as well as the issue of pedestrians going to the to the Outback and crossing the road from the parking lot.

Hewlett

If you have an opportunity to go by Old County Road, look at Hazels as an example of positive landscaping.

Bill Reinhardt

So, let's step back. We're not at Hazel's. We're not on Old County Road with a major intersection. Thirty feet from him the neighbors bought the property, and it is completely natural, hasn't been touched with tall trees. There's shrubs and undergrowth all the way through. Another twenty feet away from that, but behind the parking lot, 40 feet from all the abutters (sic). We decided, well, we'll put a little berm four feet high in for headlight issues. It's not to keep kids running back and forth or whatever. I mean, there's 30 feet or natural trees there. If he wanted

to, he could put his parking lot 20 feet away from the property line and cut all the trees between there and the neighbor

Hewlett

When I stand there, I'm looking right into the neighbor's backyard. When I stand there, I'm looking at everyone's backyards. Whereas before that was not the case.

Hewlett

Another good example are the trees at Ancho Honey.

Bill Reinhardt

But you're standing in the parking lot looking at the neighbors, not standing at the neighbors looking back at the parking lot.

Briggs

Did anyone look at it from the neighbor's perspective? What I thought was most appropriate was to ask Terry to go and take some photographs from their backyards.

Chair Cox

It is probably the most appropriate way to not have to schedule a site visit, which takes time.

Hewlett

Pictures would be just as good.

Moskowitz

Well, that's nice. What I'm saying from a capacity perspective, from a safety perspective, how many entrances or exits from the Outback are there? And does that limit the number of people that could be within that facility by itself? So, in other words, these are two separate buildings, and should the occupancy be defined by each of the buildings separately because of those considerations?

Chair Cox

They're asking for 33 additional seats on the deck and 24 I believe on the inside of the Outback.

Moskowitz

So, I know they're asking for that. But does that have to be approved by the fire marshal? From a safety perspective?

Chair Cox

That's something for us to find out, what is the capacity?

Moskowitz

One of the concerns is the number of seats but the reality is there are a lot of people standing. So, there may be 24 seats but 80 people.

Chair Cox

And that's my concern, safety of the people who are neighbors.

Howland

The Fire Marshal looked at the plans for the buildings and signed off on them based on exits and entrances. That's it, there were no additional requirements.

Chair Cox

In terms of the number of people?

Howland

Yeah, it didn't, it didn't matter.

Chair Cox

I would like to know for sure.

Terry Brackett

We've already been through this and what I'm saying is we've already received the permit from the state Fire Marshal (inaudible)

Chair Cox

But I want to know specifically about planting trees; when we get to that you say we'll plant evergreens, and you include Aussie trees as well.

Bill Reinhardt

They're spruce trees and pine trees.

Chair Cox

Aussie trees are not evergreens; they're a hybrid Willow, it's very brittle and not guaranteed to survive the Winter and they're susceptible to all sorts of disease. They might work. Are there other things that other people want to discuss? I've been talking a great deal and people need to weigh in.

Hewlett

Who does the traffic study?

Chair Cox

We can contact a traffic engineer to do a simple traffic and safety study for us. We do want to get third party experts. The applicant must pay for it. I don't want to run up their expenses.

Howland

I can call the DOT and see what the requirements for a study would be.

Briggs

We have some speeds recorded that we captured at the first Sunday concert. The machine that monitors the number of cars and speeds.

Chair Cox

We have the data already to give to somebody and tell us what it means.

Briggs

I think speed and time intervals are probably not helpful. I think the way to do it would be on Sunday, make sure the equipment is right, and make sure that the unit is set up so that we can get through it in ten minute cycles, to measure the traffic.

Chair Cox

And so that's for someone who understands that when so many people are violating the speed limit by this much.

Briggs

But it has to do with the traffic that's going through there and while I think the applicant must pay for it, I would not feel comfortable right now knowing what all the component pieces of a standard traffic study are for this kind of situation. I would hate to have a neighbor pay for something and then have to have it redone at a subsequent time. I think if we're going to have a traffic study, we should not decide tonight what the component parts of it are but leave it to an expert in that in that field. Consult an expert.

Cogger

You know, I think what I'm thinking is totally ridiculous, insane. So how do we find resolution. I hear the neighbors; they have legitimate concerns. I hear Greg, he's building a business. There are people who have a lot of fun there; what is really going to work? Can we work together to make something where everyone will give a little and take a little and people will be satisfied? Is that possible? Are we going to go round in circles?

Hewlett

I think that's a very good question.

Chair Cox

And I also think that, as was pointed out that the parking spaces on the plan aren't exactly accurate and as I've been going by, I've noticed that the giant tree is in the middle there and so there's no way anybody can park in front of it.

Howland

But they do.

Chair Cox

They parallel park I mean.

Chair Cox

The curb shot is different from where you have it on your plan so that might make it difficult for more parking spaces. On the plan, it's the way you've drawn the curb, cut into the driveway. That's all by way of saying that I feel like you, I was impressed that there were 46 cars parked in there. So, I feel like you've cut your parking. So, this is a good thing for you towards resolution. I was thinking you need overflow parking of 40 spaces. But maybe you need overflow parking of 10 spaces across the street to take care of the fact that you cannot park everybody that you wouldn't even be permitted for on that site.

Howland

So, we did cut things down actually.

Chair Cox

To grow some is fine but to grow to the level of having every Sunday with that many people coming in is not okay.

Bill Reinhardt

You run a business; you know how it is. I mean, this happens to be popular. I'm not going to limit the number event days per month.

Chair Cox

With my business when I had too much traffic on Saturday, I switched things so that it spread out. So, there are ways of adjusting.

Hewlett

If you had the food truck without the deck expansion, would that be possible? Because all you're doing is moving the picnic tables from the playground to a deck. And that way you wouldn't have to run as far. I mean, that's just could be a compromise. Just think about it. I don't need an answer on this.

Howland

I don't understand your issue. You're not addressing the issue; you seem to think Sunday Funday is from 2:00 to 5:30 and what I'm saying is people don't leave. The band stops but I mean, people stay there.

Hewlett

There's a difference between having a deck and having picnic tables where people think they can hang out longer versus in the playground area.

Bill Reinhardt

I don't believe the activity is going to increase over what it is. I mean, it's pretty much what it is and I'm trying to accommodate what we have.

Chair Cox

Okay, we're at nine o'clock. We need to come to some resolution tonight. We may not be able to settle it all. How do we proceed with information that we've asked about from the fire marshal? I think there's some basic, traffic engineer or independent person who can potentially provide advise us using the information from the town. Not sure how we are going to go about doing that.

Bill Reinhardt

Why not the DOT?

Chair Cox

Mary, do you have any ideas?

Mary Beth Dolan

I do think the DOT is the expert here. You could ask Terry and you can talk to the DOT. If he's not satisfied that they have the answer that we're looking for, then you could have the third-party traffic engineer look at it, but that may not be necessary, because that traffic engineer is probably just going to call the DOT. So, you might as well call the DOT directly to find out what their standards are regarding pedestrian crossings, whatever the category of road is, and see if you need any traffic calming measures or anything because of that.

Chair Cox

Sounds very helpful. And do you have any thoughts on how we go about getting information from the fire marshal? I don't think that the fire marshal is aware of the full extent of the operation; they might be totally fine with it. We need to ask the fire marshal that question so, Greg, could you do that? Please communicate the actual scope of the plan and the numbers and get us that information. These are two concrete things that we must deal with.

Moskowitz

And I know we're running over but one item that I'd like to address is the event schedule. Sunday is very popular, but what would stop them from having events on Saturdays or other days also? It's at the Planning Board's discretion to consider hours of operation, adverse impact on land use and developments surrounding properties.

Chair Cox

I think when we get to laying it all out, there will definitely need to be some restrictions and some very clear understandings of what's happening. In 2017 we weren't clear about what was going to happen and now it's clearer because it has been successful, and I don't mind the success; it's good. Okay, is there anything else that we need?

Cogger

I think we need some expertise in conflict resolution.

Bill Reinhardt

I just want to remind you that we've provided lists of additional information; it's a revolving door and you just keep asking for additional information such as the traffic study. These items were not on the list of information requested last meeting and they were not on the list that we explored two weeks ago.

Chair Cox

We must come to a resolution within 35 days after accepting the application. So, the revolving door is going to slow down.

Howland

I'd just like to say like, there are trees, but you don't need trees. The berm and the eight-foot fence will. The trees are going to take a while even at best, even if you put eight-foot trees in there. They're not going to block the noise.

Bill Reinhardt

We need a copy of the current application requirements and a copy of the letter from Kristen Collins.

Chair Cox

Okay.

At approximately 9:45p.m. Jane Brown made a motion to adjourn the meeting and Anne Cogger seconded the motion. After a 5 - 0 vote, the meeting was adjourned.

Respectfully submitted,

Tammy Taylor
Recording Secretary