

St. George Planning Board Meeting
7PM at Town Office and via Zoom
September 27, 2022
Minutes

The Planning Board meeting was called to order at 7:00pm. Planning Board Members present were Chair Anne Cox, Anne Cogger, Richard Moskowitz, Michael B. Jordan, and Mary K. Hewlett. Also present were: CEO Terry Brackett, Richard Bates, Anita Siegenthaler, Chip Bower, Kristin Falla, Riley Pratt, Greg Gallant,

Present via Zoom were Loreen Meyer, Joanne, Adele Welch, Alex Rosen

Quorum:

A quorum was present. As Jane Brown was absent, Alison Briggs was elevated to voting status except for voting on the JD Miller Construction Findings of Fact, as she was absent from the site visit at which that application was considered.

Conflict of Interest:

There were no conflicts of interest.

Adjustments to Agenda:

JD Miller Construction Public Hearing minutes

Review of the Minutes:

Hewlett moved to approve the September 13, 2022 Planning Board meeting minutes as corrected, seconded by Cogger. By a unanimous vote, the minutes were approved.

Jordan moved to approve the JD Miller Construction Public Hearing minutes as corrected, seconded by Cogger. By a unanimous vote, the minutes were approved.

Hewlett moved to approve the Findings of Fact and Conclusions of Law for the Miller Lobster Company as corrected, authorize the Chair to sign, and was seconded by Briggs. By unanimous vote, the minutes were approved, and authorizations issued to the Chair.

Jordan moved to approve the Findings of Fact and Conclusions of Law for the JD Miller Construction Company as corrected, authorize the Chair to sign, and was seconded by Hewlett. By unanimous vote, the minutes were approved, and authorizations issued to the Chair.

Public Comment:

Chair Cox

This is the point in our agenda for public comments.

Falla

I'm Kristen Falla. I was directed from the Select Board last night to come here because as you probably have noticed, as you drive up 131, the application that was considered that was withdrawn in July, has appeared. The parking lot has appeared over at the Happy Clam, 13 River Road; the Howland residence and the Outback saloon Sunday Funday. If you observed on Sunday, there was a very large crowd. They were using the parking lot. I called the Town Office earlier this week to check in to see what had been done. I haven't heard of anything that had been done. After that equipment got moved from the entrance you could see inside and see the 10 foot berm that had been proposed on that same application. I also want to see if the requirements for the Happy Clam approval that included the trees, the food truck and such, if those things had all been achieved. The food truck has been operating all summer long since that meeting and I wanted to see if Dale had gone through with the trees and if everything was on the up and up, as one of your conditions for your approval.

Chair Cox

Terry, do you want to address any of that?

Terry Brackett

As far as the proposed parking lot, he has not made a parking lot in my opinion because he is not hauling any gravel or anything. He did take out stumps and somewhat leveled the ground. Rick and I have talked about that. We were okay with what has happened at this point. As far as parking vehicles in there, Rick and I feel that if that property is planted into a field and he is parking his own vehicles in there, then that is not really a parking lot.

Falla

His own vehicles or the commercial customer vehicles?

Terry Brackett

His vehicles, not clientele.

Hewlett

Sunday, there were definitely clientele vehicles there in the mud.

Terry Brackett

As far as what happened at the Happy Clam this weekend, they had a visit from a liquor inspector, and she is not done with them. They are not ready for the permits that they'd asked for because I believe that it's getting entangled with the fire marshal's office as well. Some of the violations they saw involve the fire marshal's office and so I'm not sure how that is going to play out but it's probably going to go into next spring.

Chair Cox

The question is how we go about enforcement. That is a question potentially for you and the Select Board. How do we go about enforcing that? He can park his own car there but there is no permit for commercial use in that parking area that he is clearing.

Terry Brackett

If he is in fact parking clientele's cars in there, the town will have to deal with that because that is not permitted through the Planning Board.

Chair Cox

Right. We are going to have to figure out how to enforce that.

Bates

When I spoke to Rick about this imminent problem last week, Rick was going to go over and talk to the proprietor about the parking lot and remind him that he does not have a permit to park patrons' cars in that space. He was reminded of that. I did not go by on Sunday, so I do not know what the situation was, but he knew that he should not be parking cars there. I understand from speaking to Rick, he was directing lots of cars to park on the side of the road, which brought up the next issue of the Deputy Sheriff stopping by to check on the legality of that. Someone had called 911 to report that and the deputy concluded that in fact, it was okay. No one was parking over the white line. Greg knows that he should not be using that parking lot. I don't know if someone is prepared to say that there were patron's cars there.

Falla

I have photos if you would like them. There needs to be some follow up of what is happening in that parking lot. The owners of the vehicles could be determined by the license plates.

Terry Brackett

There is a lot of stuff going on right now. When the dust settles, we will get this straightened out.

Chair Cox

There was some correspondence about decibel readings at a private residence that were hitting 85 decibels.

Bates

That was addressed when Kristen asked the question last night. The issue there was that it was an Android or Apple type app that was not calibrated, had no filter, and no reference to the length of time of the measurement. The measurement period is standardized, and there was no reference to where the person was standing when they made the measurement. The record of the sound level is strongly dependent on where the recording is taken. The fact that it was 85 decibels is for all intents and purposes meaningless. I understand that the sound was much worse than it has been in the past.

Chair Cox

We need to determine how we will monitor with properly calibrated equipment, because that is one of the conditions that we had on that permit as well.

Terry Brackett

The liquor inspector said that she left there at a quarter of six and that the band was still going strong and that is a violation.

Hewlett

Is anyone documenting these violations and sending him warnings?

Terry Brackett

That's for the state to handle (inaudible). There will be repercussions from this.

Hewlett

At this point in time, I'm thinking he needs to put a chain across the opening of the parking area.

Terry Brackett

I think that happens anyways for the winter.

Cogger

I think that there has to be accountability for whatever happens, and we have to hold businesses accountable, according to our standards. Terry, that puts you in the hot spot. Is that right?

Terry Brackett

I knew when he withdrew the application, that it wasn't going to be the end of it because I felt that he was going to make it into a field to park cars in there.

Cogger

I feel like we shouldn't just let it go.

Terry Brackett

We're not going to let it go.

Cogger

Is the liquor license a bigger priority and will the parking lot get overlooked.

Terry Brackett

That has nothing to do with us. Who knows where this is going to land.

Cogger

I'm just trying to get some clarity.

Chair Cox

Can I make a suggestion? You are probably already doing this. Keep a list of the violations so that we have it documented. It might not hurt to get some photos as well.

Falla

I did want to ask after our conversation last night. Marybeth had raised the idea if Jamie Wyeth were to purchase his own calibrated, scientifically approved sound monitoring equipment and there was a plan in place, would that be up to the reasonable expectations of the town to be able to use for sound monitoring (sic)? It wasn't the app like you got the real stuff and had it (inaudible).

Bates

If the town deems it's necessary to continue making measurements, then certainly the town can do that. Rick is out this week but it's certainly something that we are going to need to discuss.

Terry Brackett

We shouldn't have to do that for business in town continually.

Bates

That creates a problem about how best to deal with it. Rick and I were out there doing measurements earlier in the year and it's not something that (inaudible)

Briggs

I just wanted to follow up with Kristin. You mentioned two things. One was about the parking lot. And the other was the 10 foot berm. Are you taking the position that he doesn't have the right to create a 10 foot berm on his property?

Falla

That was what was in his design plan that he presented.

Briggs

But you're not opposed to him doing that on his private land?

Falla

He can make his own pile there. It just was exactly what I had seen laid out to you.

Briggs

I understand what you're saying isn't that you oppose the berm but that it was more evidence to you that he was going forward with the plan that he withdrew.

Falla

It wasn't the pig farm plan. And I asked about the trees.

Chair Cox

I understand that Dale Pierson went and inspected the trees, and they have all been planted.

Terry Brackett

The trees have been planted. They are mowing around them, so they stand a chance to grow.

Chair Cox

And Dale also gave him a care plan.

Terry Brackett

I believe he has someone helping as well.

Hewlett

How about the fence?

Chair Cox

The fence section is up as well.

Terry Brackett

The section of the fence to be put up this year has been completed and we will see what he does on the second section.

Chair Cox

Let's see if he straightens the old section.

Falla

Thank you very much.

Building Application: Change Big Thunder to an Accessory Structure within the Buffer Zone

14 Vannah Rd., Map 103, Lot 14 (Opal Architecture)

Chair Cox

Let's move on to our building permit, Opal Architecture changing Big Thunder to an accessory structure. Tell us about your application.

Riley Pratt

I'm Riley Pratt. I work for Opal Architecture. We're located in Belfast. The owner is Brad Downs. The plan is Big Thunder exists within the 75-foot setback and in order to maintain that footprint we're proposing to retain greater than 50% of the value of the existing structure. It's the primary residence on the property now, and the goal is to turn it into an accessory structure and build a year-round home up the slope beyond the 75-foot setback.

Chair Cox

I made some conclusions looking at the plans but what is the use to which the accessory structure will be put?

Gallant

Like a lot of the old houses along Horse Point Road, we're hoping that we'll be able to watch the sunset, which is pretty spectacular and have drinks there, probably eat on the deck sometimes during the day; not something you would do at night. It's a little windy there in the evenings but during the day, it's really beautiful. It is a historic structure and it was built by Russell Porter and the fireplace has a plan that we want to preserve that he actually himself wrote and we found some drawings in the walls and things like that but actually (inaudible) Marshal Point those because they're actually Russel Porter's designs for (inaudible) and things like that, but there's a lot in that place that's remarkable and it would really be a very sad thing to take it down. On the other hand, it's you know, we talked about what we might be able to do with it and without

completely redoing it and putting in a foundation. It's 112 years old, and it really hasn't been updated but it's usable as a seasonal structure. If we can reinforce some of the piers a little bit, we should have another 110 years in it at least, but it just couldn't support being converted into a year-round home which is as you know what I wanted to do. Realistically with the constraints that we were under for it, it can't happen. It's probably not a bad thing in some ways. I'm reconciled to that, and to keeping it in spirit, but recognizing that we have to move on and do something different with the property than what we had originally hoped to do.

Hewlett

I'm just a little confused because it shows it is a four bedroom upstairs.

Chair Cox

That is existing.

Gallant

There won't be an upstairs. We're going to take off the second floor because it is going to be an accessory now; it's not going to be a home. It's not going to have a stove. That was the plan originally, to try to expand the whole building. But now we've done away with that completely. And we're cutting it back to the ground floor, which is larger. There's a little confusion and we had an exchange with Terry about this. The current records for Big Thunder are not very precise or maybe not even accurate. The property is smaller than the town records show by a considerable extent, which made some challenges for us and coverage issues and siding and so all of which Riley has brilliantly figured out a way to get around and fix the problem. We feel very supported by our neighbors in all of this. The house was shown in the town records. You might say how could I have lived there for 30 years and never have known this, and maybe you all pay attention to those things, but it never occurred to me to go back and check to see whether or not the property was actually the same as the property in the town map. It never occurred to me to go back and check to see whether the size of the house was what the town said it was when it was assessing it and so on. The upstairs is significantly smaller than the downstairs. I actually went around and took some pictures the other day so I could see for myself where the differences were and look at them. Riley would know exactly but it's probably at least a third smaller and maybe more than a third smaller. There's no deck and we think maybe what happened was, I'm not familiar with how this works, but the assessor just calculated the size of the property by measuring the ground floor and doubling it, maybe including the deck in both, maybe adding in the shed. I'm not sure. That shed was an outhouse. That was Mrs. Furrey's outhouse. And so that's basically what we're doing. We are making it into one room and retaining the fireplace and retaining the deck and hope it will be a wonderful place.

Chair Cox

Are you replacing the foundation?

Gallant

No.

Cogger

But it's getting a lot bigger.

Gallant

No, it's not getting bigger.

Chair Cox

Well, they're adding the house. They'll be putting a house on.

Hewlett

We're only talking about the existing cottage right now, but we are going to get to the house. The valuation that we were given is \$79,200. Is that current for the building?

Gallant

I have no idea.

Jordan

I looked in the recent town report and my recollection is it's still the same.

Gallant

I think that's the amount.

Hewlett

The question is how much it will cost to remove the roof and shore it up.

Terry Brackett

We've got some issues that are going to be arising in the next few meetings. The costs of construction due to COVID have gone right out of sight. You can't begin to do anything on these buildings for what the assessed value is, so something has got to give.

Terry Brackett

We've got one coming up that has nothing to do with the footprint of the building. The proposed construction costs are going to be double the assessed value and that's just basically due to construction costs.

Jordan

I'll just point out the test under the ordinance is market value, not the assessment.

Riley Pratt

One small point and I'm not an expert in the Shoreland Ordinance, but the way that the ordinance reads is that you need to retain 50% of the value of the existing structure. It says nothing about how much money you can invest in repairing that structure or new work to that structure. It has to do with how much value you can remove while retaining its location as existing nonconforming.

Hewlett

You estimated 60%, I think.

Alex Rosenthal

What we tried to do for the application is come at it from a bunch of different angles looking at how much floor area we're retaining, how much of the structure we are retaining, looking at the section and the plan to make sure that it was reasonable, and we were well beyond the 50% threshold.

Jordan

Just to be clear, the test is not whether you're removing more than 50% of the value. The test is whether you're going to reconstruct more than 50% of the value. What the ordinance says is if there's damage or destruction of more than 50% of the value, then you must get a permit. In order to get that permit, you must move the thing back, but you are not looking for a permit to reconstruct the second floor. There are no conditions on getting a permit to take off 50% of the value if you're not proposing to rebuild it.

Hewlett

But it's going to be more than 50% in value by the time they pay to rebuild it; they must put on a new roof. That alone will put it over 50%.

Gallant

It needs a new roof anyway.

Briggs

It's just a replacement of an existing roof in the ordinary course of maintaining it. I think if I understand correctly, you're just going to take away the second story. My understanding is that any work done on the exterior such as the roof or the siding or whatever would just be to replace something that's already existing.

Gallant

The only thing we're going to do is the hot water heater. It's a little Carbuncle. We're going to move it to the other side, which has an indentation that I think used to be a screen porch before I ever got it thirty years ago. It has a flagstone, very degraded, very wet and so we're just going to move that little Carbuncle to the other side. We're not expanding it in any way. It's just going to make a flat facade. It's almost inch for inch the same. We're not looking to expand it at all. I mean, quite honestly, I can say to you, if it weren't for the ordinance, I would probably like to make it a little smaller, but I can't do that and comply with the ordinance and therefore we left it exactly the size that it is.

Briggs

When it was originally constructed, was there a second floor?

Gallant

Yes, when I got it 30 years ago, there was a there was a second floor and the drawings all show a second floor, and I don't think Russell Porter ever built a cottage that didn't have a second floor.

Chair Cox

What is Russell Porter going to say about a flat roof?

Gallant

I think Russell Porter is one of the most brilliant people and he would think it was absolutely wonderful.

Chair Cox

Okay. Let's go on to other questions. I think we know the use to which you're going to be putting this structure now. Other questions on the application that people may have?

There was an extended discussion among Mr. Gallant, Mr. Riley, and members of the Planning Board about various dimensional aspects of the project, as reflected in the application and its accompanying materials, including the lot area, the footprint of the existing structure (including proposed changes to that footprint), the size of the proposed new residence, and the areas to be cleared (and previously cleared) of trees and other vegetation. As a result of the discussion, the applicant agreed to submit a revised application that would reflect the discussion. In particular, the revision would provide information on building "footprints," rather than floor square footage, and would include additional detail to demonstrate that the proposed alterations of the existing cottage, including any proposed roof overhang, would not enlarge the total footprint of the structure to more than the existing 880 square feet.

Chair Cox

I think we need to have this clarified to have a complete application, but I think you have the information.

Jordan

So that the record will be complete in the file, could we have a little more detailed narrative description.

Chair Cox

Just the use of what the accessory structure will be put would be sufficient for a description, a clubhouse or whatever.

Hewlett

And then my only other question Terry, are all these pictures that we have from the previous application, are they going to be included in the new application?

Pratt

They were submitted with it.

Jordan

We could probably consider this to be an amended application. That way you don't have to pay a completely separate application fee. I couldn't find the application before, so I don't know what the proposed cost of that was.

Chair Cox

I found it.

Jordan

Was it already at the maximum?

Chair Cox

We have caused you to double the cost of the project from your initial estimate to this estimate.

Pratt

We talked with Terry and we sent a check for the new higher valuation.

Chair Cox

It should be recorded in here that you paid.

Terry Brackett

It has been recorded.

Hewlett

Then all these pictures from the prior application would still be included.

Briggs

I wasn't an alternate at the time. What was the date of that prior application so that I can look at that?

Pratt

Feb 7, 2022.

Chair Cox

You can look at the minutes and see that we advised them that they could not do what they wanted to do. They went away, and they came back with this. It took a while to convince them.

Gallant

Oh, no, it didn't take any time to convince us; it took us a long time to figure out how to do it instead, so that it would satisfy you. Riley had to satisfy you and us and that was the challenge.

Chair Cox

Let's get those changes made so that we can accept it as complete and make sure that we get a copy of the survey as part of that. I will say that, as I've looked at things, I don't think there's going to be a problem when we get to it to look at the change of use of this. I think that an existing non-conforming use may be changed to another non-conforming use, provided that the proposed use has no greater adverse effect on the properties and resources. I think that can happen. Let's just make sure we've got a complete thing and then we can move along.

Hewlett

You did a nice job satisfying our ordinances.

Gallant

Well, thank you. I will say this, Opal worked very, very hard to do this, the setbacks, the issues and all of those things were very challenging. Chip Bauer knows all about this. We were looking at whether we have a new well or not. The water down is very salty, particularly this summer. When we get back, I'm told it may not make the slightest bit of difference. We're trying to figure out all those things and keep everything as close to the natural environment that it is because it's not a very heavily landscaped, it's not a sort of suburban area really, it's very woodsy and we want to maintain that. Assuming we could file all this and get it in by Tuesday.

Chair Cox

If you get it in by next Tuesday, then we should be able to have it on the next meeting, the 11th of October. Our next meeting is October 11th so that's when you would be on the agenda, and we can review it.

Adjourn

A motion was made by Jordan to adjourn the meeting at 7:59pm, seconded by Briggs and by unanimous vote, the meeting was adjourned.

Respectfully Submitted,

Tammy Taylor

Recording Secretary

Town of St. George, Maine