

**St. George Planning Board
September 12, 2017 – 7 p.m.**

The Planning Board meeting was called to order at 7 p.m. Members present were: Anne Cox, Chair; Jane Brown, Mary K. Hewlett, Michael Jordan, Ray Emerson and Paul Gill. Also present: Terry Brackett, CEO; Richard Bates, Clayton Fowlie, Glen Haight, Craig Wilgus, Ronald Ray, Brian Breen, Brendan Chase, Debbie Scheffe, Matt Tibbetts, Will Gartley, Justin Long and Donald Wilson III.

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

Conflict of Interest: There was none.

Adjustments to Agenda: There were no adjustments to the agenda.

Review of Minutes:

Planning Board Meeting – August 22, 2017 – The minutes were amended as follows:

Page 3, number 5, first line, change to read **Retaining** walls that are not...

Page 4, under Discussion on Note, line 2, change to read he had mailed the **letter** in.

A motion was made by Emerson, seconded by Jordan to accept the Planning Board minutes of August 22, 2017, as amended, 5-0.

Findings of Fact & Conclusion of Law

The Happy Clam – The Planning Board signed the Findings of Fact & Conclusion of Law which had been approved at the August 8, 2017 meeting.

American Tower Corporation – Corrections to the Findings of Fact:

Page 1, first paragraph, line 5 change to read voted on August 22, **2017** to approve...

On a motion by Hewlett, seconded by Brown to accept the Findings of Fact & Conclusion of Law for the American Tower Corporation, as amended, 5-0, pursuant to the Performance Standards Review, Section V, A1-20 in the Site Plan Review ordinance.

Public Hearing – Wyeth Reading Room – August 8, 2017. The minutes were amended as follows:

Page 6, paragraph 5, line 3, correct spelling of site distance to **sight** distance.

Page 7, paragraph 1, line 1, correct to read Associates case, **554 A.2d 799** for the attorneys...

Page 8, paragraph 3, line 2, correct spelling to ...an **exponential** increase...

Page 8, paragraph 6, line 7, correct spelling to **exponentially** in the summer.

Page 9, paragraph 5, line 1, correct spelling to lady said about **precedents** that are being...

Page 10 corrections: paragraph 3, line 4, and paragraph 6, line 1- correct spelling of site distance to **sight** distance.

On a motion by Jordan, seconded by Brown, it was voted to approve the Wyeth Reading Room Public Hearing minutes of August 8, 2017, 5-0, as amended.

Performance Standard notes on the Wyeth Reading Room of August 8, 2017 will be reviewed when the final draft has been completed.

Public Comment: There were none.

Building Permits:

a. Ruth Godin – Clayton Fowlie of ClayBrook Landscaping represented the applicant. The application is to install stone and rip rap to help prevent further erosion and stabilize the site, located at 443 Island Avenue, Map 230, Lot 21-A, Rackliff Island subdivision, Marine Residential, Floodplain Designation VE14.

Fowlie said, over the years, rain water runoff has caused washouts and deterioration of the property between the Godin's and the neighbor's property, and each year the problem has gotten worse. Godin's house is on a down slope and plateaus at her driveway. He said the veins of water drain downward, pushing through, and undermining the bank. Fowlie said he got an email from DEP today and the Permit-by-Rule for storm water abatement was granted. The proposed plan is to only fix the unstable area, use a thin layer of material, compact it and use some filter fabric underneath.

Fowlie said no vegetation would be torn out, but he would need to cut down the ferns in order to see the existing area that is damaged. The plan is to only fix that area. He said eventually the ferns would grow back and take that spot. Fowlie said he would use a mini excavator and small dump trucks for the proposed project. Chair Cox said it appears that a good erosion control method will be used (BMP).

Chair Cox asked Brackett if this project fell under a particular ordinance, and he said there was not a specific ordinance; it was within the 75' setback, and that was why he needed the Permit-by-Rule. Hewlett asked if Fowlie had a site plan. Fowlie had drawn a plan drawn and presented it to the Board. Chair Cox updated the diagram sketch with the proposed waterway, showed where the added fill with 6-8" rip rap would go, and noted on the plan that the Godin's would be keeping the natural, existing vegetation. Fowlie added that the situation is correctable and that the project would not affect the neighbor's property. Brackett asked Fowlie for a copy of the DEP permit when he gets it. Fowlie said he would bring it down to the town office. Fowlie paid the \$20 application permit fee at tonight's meeting, September 12, 2017.

On a motion by Brown, seconded by Hewlett, it was voted 5-0 to accept the application as complete, pending receipt of the DEP Permit-by-Rule.

On a motion by Emerson, seconded by Brown, it was voted 5-0, to approve the application, as this project will prevent further erosion and protect the existing vegetation.

b. Richard Scheffe – Brian Breen represented the applicant. Breen said the application is to replace the deck and it would be repaired in sections. He said potentially siding and few other things may be done. The location is 131 Howard's Head Road, Map 20, Lot 22; Shoreland Zoning is Marine Residential, Floodplain VE11.

Brackett said he called Scheffe to discuss how much work he was actually having done, and Scheffe said Breen would explain the project. Breen said they would be doing about one-third of the upper part of the deck now, but eventually, Scheffe wanted all of the deck repaired. Brackett asked Breen if the permit was for one-third of the upper deck, and he said he wanted the permit for the entire upper deck. Brackett acknowledged the permit would be good for two years, and clarified with Breen that he wanted to do the entire upper deck. Gill asked if it would be decking or framing and it would be the same size. Breen said everything - framing and the decking, and he would stay within the original footprint.

Chair Cox asked if he would be taking out what was there and rebuilding it. Breen said yes. Hewlett asked if he was going to have to take down some trees or could he go around them? Breen said they should not have to take anything down. Brackett asked about the railing and Breen said it would be vertical as it is pitched at an angle. Brackett agreed with Emerson that this would make the structure smaller (with the railing pulled in). Gill was concerned about the safety factor. Brackett asked Gill if he was referring to height of the railing and Gill said the opening. Brackett explained that Breen had put a new railing on, so it would conform to the building codes which meant, that a four-inch sphere could not pass through the balusters.

Brackett asked Breen how much siding he was going to replace because when he talked to Scheffe, it sounded like Breen would just be replacing anything that might be rotten. Breen said he and Scheffe talked about a few different things, including installing cedar shingle siding because it had T-11 on the outside, plywood exterior siding. Breen said when he filed the building permit application; he wanted to cover all his bases. Brackett reviewed what the building permit was for: it is going to replace the upper deck, replace railings with code compliant railings, and add install cedar shingle siding for the entire house.

Hewlett noted the project description needed to be changed because it would be the upper deck replacement. Brackett documented the changes, and said he would transfer the information to the permit. Hewlett asked, "At some point in time, are you coming back for the lower deck?" Breen, "Right now, there is no plan to change the lower deck; it is in pretty good shape."

Hewlett asked if a letter had been received authorizing Breen to represent Scheffe. Brackett said he had received an email and would include it the application packet.

On a motion by Brown, seconded by Emerson, it was voted 5-0 to accept the application as complete, with the added changes to replace the upper deck, replace railings with vertical rails, and code compliant railings, and install cedar shingle siding.

On a motion by Hewlett, seconded by Brown, it was voted 5-0 to approve the application, as the proposed project is a replacement of an existing deck, is not increasing the size of the footprint and it will be a safer structure.

c. Craig Wilgus – The applicant and Glen Haight were present. The application is to replace the existing deck, repair stonework, and replace pilings on the wharf located at 20 Coop Road, Map 102, Lot 064; Shoreland Zoning District is Commercial Fisheries/Maritime Activities, and Floodplain AE11. The property owners are Craig Wilgus, Glen Haight, and Michael Burlant.

Haight said the plan is to rebuild the deck and wharf. Wilgus said the area is in desperate need of repair. Brackett said he visited the site and took pictures. Emerson asked if they would be tearing out any of the pilings. Haight and Wilgus said they will replace the pilings and do a small amount of stonework. Hewlett asked if they were expanding the footprint or just keeping the existing footprint, and were they putting new boards over the rotted section, for safety issues? Haight said yes. Chair Cox said eventually the deck would be gone. Brackett said the project is a repair; it's a residential property, so no Performance Standards needed to be done.

Hewlett asked if they would be bringing in any heavy equipment. Wilgus said because it was mostly on a ledge, they would not need to dig the pilings. He said they would not need a barge or heavy equipment on the job site, so there would be minimal impact. Chair Cox said this application is for a repair because it is an existing structure, the property owners are making it safer, and potentially there will be less erosion.

On a motion by Brown, seconded by Hewlett, it was voted 5-0 to accept the application as complete.

On a motion by Brown, seconded by Hewlett, it was voted 5-0 to approve the application, as the wharf and deck will be much safer when the project is completed.

d. Paul G. Gill – The applicant was present. The application is to add a dormer to the west side of the cottage, change the second-floor layout, add a new set of stairs to replace the existing spiral stairs located at 126 Shumaker Lane. The property owners are Tim Luehrman and Ann Velie. The present and proposed used is a year-round cottage.

Gill said the owners would like to do a renovation to their salt box style house and add a dormer. There will be a new layout to the second story, but the footprint would not change. Gill said because there is a spiral staircase in the middle of the house, the only way to get things up to the second floor is via the pulley system located on the front deck, but there are no plans to remove the pulley system. The homeowners want to remove the spiral staircase and have a new set of stairs installed. Gill said one bathroom will be added on, but there will be no change in the number of bedrooms. A septic system site evaluation done April 17, 1990 by Doug Meservey was included with the application. Hewlett asked if the dormers were going on the outside of the

hallway. Gill said the dormer is stacked onto the current existing, exterior wall. Chair Cox and Brackett said the house is within the 75' setback.

On a motion by Brown, seconded by Jordan, it was voted 5-0 to accept the application as complete.

On a motion by Brown, seconded by Jordan, it was voted 5-0 to approve the application as installing a new set of stairs will provide better safety and there will be no expansion of the footprint of the structure.

e. Ronald Ray – The applicant was present. The application is to put a 4' high chain link fence on the side of the house located at 35 Barter's Point Road, Map 105, Lot 20, Shoreland Zone District Marine Residential and Floodplain Designation VE12. Brackett told Ray because this application comes under the Shoreland Zoning District, he had to bring it to the Planning Board for review.

Ray presented a site plan for the proposed project. He said because the fence would be located far enough away from the road, it probably would not be seen. He said they would like to let their dog out on the deck and go down into the chain linked fenced area rather than onto Barter's Point Road. Ray said they have renters who bring dogs. The contractor would be Tom Fence Company. Ray said on the water side of his house, there is a 6' to 10' drop off down to the shore, so it would be a safer environment for his grandchildren to play in. Brackett said normally, a town permit is not needed for a fence, except that the proposed project is in the buffer zone. Ray said he will not be disturbing the wild blackberry bushes and ferns that are there.

Ray said he located the metal property pins and pulled a string to mark the property; he will have a few inches off the property line just to be on the safe side. Brackett told Hewlett that a fence would not be considered a structure, so it did not need a setback. Ray said the fence would be a green, vinyl covered chain link fence, and it would blend into the surroundings during the summer months. Chair Cox said because he was not disturbing the soil, he would not need a Permit-by-Rule.

On a motion by Emerson, seconded by Brown, it was voted 5-0 to accept the application as complete.

On a motion by Hewlett, seconded by Brown, it was voted 5-0 to approve the application, as the project will be a safer environment for the dogs and the grandchildren.

Subdivision:

Justin Long (pre-application) – Will Gartley of Gartley & Dorsky represented Long; the applicant was present. The pre-application is for a proposed subdivision located at 162 Seal Harbor Road.

After the last meeting, Gartley said he re-reviewed the town's Resource Protection Zone and struggled to find a good way to determine exactly where it was. He said he tried to overlay the town's map over this map and an aerial photo the best he could, but it was not very exact.

He said he reviewed the ordinance carefully, trying to figure out why the area was Resource Protection and where he should measure from. To be conservative, they surveyed only where the vegetation changes from emergent wetland vegetation to forested because he did not want to do all of this work, have Justin spend a lot of money, only to find out that he (Gartley) was off because it is so close. Continuing to research why the area was Resource Protection, he concluded it was the Inland Wading Bird Habitat maps, which were changed in 2008, and that area was not mapped as Inland Wading Bird Habitat. Gartley said he is not convinced that the reason the town has it listed as Resource Protection even exists, anymore, and that the map is really accurate. He said forgetting all of that, because that is not an easy discussion; it would take time to change the town map, even though he thought it was a discussion he would like to have, at some point.

Gartley talked with Colin Clarke of DEP who pointed out an exception in the ordinance under H. Shoreland Zoning, Section 15.H.4 regarding new roads and driveways. The Planning Board "may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District upon finding that no reasonable route or location is available outside the district." Gartley asked the Board if they would look at that section of the ordinance and to potentially make a motion and vote, so that they (Gartley) would know that they could move forward and put the road there.

Brackett asked Gartley why he felt that they (IF&W) changed the Wading Bird Habitat area. Gartley said the information he sent to Brackett, gave a pretty good indication of what happened. Gartley said they used very old aerial photography when they did the mapping before, and when the aerial photographs got better, and they better defined what it was that classified as an Island Wading Bird Habitat, then that got reclassified. Gartley said that was why he included this because it was an email directly from IF&W telling them what they did and when.

Gartley told Cox the slopes on the property are pretty gradual down to the stream. He said they had moved the road (on the plan) as close to that existing house as they could to still meet setbacks. Gartley said this was just a very small portion of land, and there was still a big, forested buffer between that land and Jones Brook. He felt reasonably confident that would not cause a lot of environmental impact.

Chair Cox had two questions:

1. You are going to have to build up a little bit toe and a little bit of fill for the road, so how far would that be coming out? Gartley said it would be from the edge of the road, and the max disturbance would be 20' or even less, and on that side of it, they would not need a ditch line but would let it slope away. That would minimize the impact. He said the grades there are actually relatively flat.

2. Are you confident that meets the DOT standards? Gartley they talked with DOT, and submitted for this entrance down here. They cleared some vegetation to improve the sight distance. Gartley said he had been waiting to submit one of the other applications until he knew they were going to be able to move forward. Gartley said the plan shows the area that would have least amount of impact to get to the land that is useable. Jordan said the driveway shared by Lots 6 and 7 went through a wetland and asked if that was an issue. Gartley said it did go through a wetland, and they would have to get a permit for that. Hewlett asked if it would be a Tier 1. Gartley checked the scale and said it would definitely be a Tier 1 or less. Gartley thought they may not need a permit at all, if they stayed under the 4,300-sq. ft. of wetland impacts. Gartley told Hewlett that each of these lots has a building envelope, and every one of the tests pits seen on the plan are suitable soils for a septic system.

Hewlett said typically there was a box for an envelope, but Gartley was showing it outside the wetlands. "As long as you build outside of the wetlands, you will be able to get your house in."

Chair Cox, "This is your sticking point."

Gartley, "Yes, everything else, I am confident we are going to be able to meet the ordinance requirements for the subdivision but this one, I just wanted to make sure the Board was in agreement with us before we went forward because if they are not, then that is a pretty major issue."

Chair Cox, "That is hard, isn't it? I would say I am inclined to try to keep our Resource Protection areas as inviolate as possible, because they are there for a protection reason. That is just my inclination. This seems like a small bit and a questionable bit in terms of maybe if we were doing the mapping today, we would do it differently? There is that issue."

Hewlett, "I agree there are two issues here. One is, are we using old maps or new maps, but it does not really matter because at this point in time we have a set map, i.e., the blue one or the red one."

Jordan, "The red one is the map, right?"

Gartley, "The red one is us overlaying the town map onto this plan. Then the blue line is us going out there and still calling this Resource Protection but finding out where the wetland is."

Hewlett, "Vegetation."

Gartley, "Vegetation actually changes and measuring 250' from that. That is the most conservative, possible reading of this."

Jordan, "Well, in fact, the ordinance says that the maps are approximations and you should go with the facts on the ground."

Hewlett, "Right. And the third point is that, this would be allowed if you need to get a driveway or a road into a site."

Gartley, "The ordinance allows what we are asking for."

Chair Cox, "Not the first sentence but with the second sentence of number four. 'A road or driveway maybe approved by a Planning Board in a Resource Protection district upon finding that no reasonable alternative route for location is available outside the district.' Clearly, this is setback as far as practicable."

Hewlett, "Is this a new subdivision or is this just adding onto an existing subdivision?"

Gartley, "No, this is totally new. Everything that was done before, was done slowly over a period of time and did not require subdivision."

Hewlett, "Do these owners know they are going into a subdivision?"

Gartley, "Lots 3 and 4 are both owned by Long. They are all on the parcel and part of the property. There is nobody that is going into a subdivision that is not part of this property. Justin is the only owner of the property that is involved."

Hewlett, "Okay, so Lots 3 and 4 are yours," (to Long).

Gartley, "Those lots do not even exist right now. They are just two houses on one lot."

Hewlett, "Can you put a septic system inside a Resource Protection area? Lot 9?"

Emerson, "Do you need too, though?"

Brackett, "It is not a Resource Protection area."

Gartley, "We did a test pit down in there. We just did test pits everywhere to see what was going on. When Dave did those, it is not easy to know exactly where you are out in the woods."

Hewlett, "Right, but you think Lot 9 would test outside of the Resource Protection. I would not think you could put a septic system in a Resource Protection."

Chair Cox, "No, that would not go in there, but you are going to assume that since all the way around here, you had good test base. That even though you did not get one in there."

Gartley, "Like I said when we come back and show more detail, I will make sure that we have one for every lot."

Hewlett, "Outside of the Resource Protection. How wide is the road? Does the road meet all the specs for the town road?"

Gartley, "Yes, for the town."

Chair Cox, "If we went with the town map line, which is the red, the red dotted. Then the only part of the road that would be in the Resource Protection would be part of the right-of-way, and you would have a little bit of clearing and a little bit of fill into that."

Gartley, "Right. Which is what I showed you the first time I came, before I had gone out there and tried to figure out, exactly the best way to map it and show it. To some extent, my being conservative is probably not making Long happy."

Hewlett, "No, but it is a very reasonable. I feel it is a very reasonable request. We have asked is there any other place you can put it? There is no other place that is going to be less intrusive of wetlands. "

Jordan, "It is as far back as it can be."

Chair Cox: "The slopes are not difficult slopes."

Gartley, "It is very reasonable to put it there."

Hewlett, "I think it is the best option available. I do not think you should be penalized for the fact that our map is red and you conservatively did blue due to vegetation on the **site** walk."

Gartley, "I am not sure there would be a better use of that section in the ordinance. If this cannot be used for this project, I am not sure where it could be."

Emerson, "Are we looking at a motion or an agreement? Because all we are approving is that little piece, right?"

Brackett, "I think he is looking to make sure that you are on board."

Gartley, "No, I would love to see a motion that the Board is willing to grant an approval based on Section 15 (H)(4), that the road can cross through the Resource Protection."

Chair Cox, "I would say we see no impediment, given that section to the road crossing through, there."

Hewlett, "I think it applies to this one specific request."

Gartley, "I still have to meet all the other requirements of the subdivision; it is just this one section. The next is for us to spend a fair amount of money, honestly, and I just did not want to

do that and have that risk. It is not like these are incredibly valuable lots, either, so we are trying to."

Hewlett, "I remember at the beginning, you wanted affordable lots for people, which was nice. And, they are all over an acre. I know we are not approving the subdivision, but just while we are looking at it, we should see if there is anything else that any of us see. But they are all over an acre. I do not see any spaghetti lots."

Emerson, "If we made a motion, basically, we are making a motion to talk about this little area. Nothing else on the plan but we are basically saying to him, we will go along with that. A motion is to accept his roadway."

Hewlett, "The proposed road location based on Section 15.H.4 of our existing ordinance."

A motion was made by Emerson, seconded by Hewlett, "That we, the Planning Board, see no problem with the road going through the entrance of the road as drawn on the plan, going through the Resource Protection section, based on Section 15.H.4, Map C-1, dated August 30, 2017." A vote was taken; the motion carried, 5-0.

Wharf:

a. Steven Watts – Matt Tibbetts represented the applicant. The application is to construct a new 5' x 144' long wood piling supported pier, with seasonal 3' x 50' aluminum ramp and 12' x 24' wood float located at 39 Rocky Point Road, Spruce Head, Map 229, Lot 032, contractor Art Tibbetts Marine.

Tibbetts said on the first application drawing, there were stairs on the side. Since he talked with DEP, they eliminated the stairs. Jordan pointed out that stairs are still drawn on the plan. Tibbetts will forward a new drawing without the stairs. Tibbetts said the area has a partial tide. The pier is about 55' shorter than if they had gone full length. They tried to minimize it by going a little bit thinner, 5' wide instead of 6' except for the last 10'. He has all the approvals from the DEP, Army Corp of Engineers, IF&W, DMR, and MHPC. Chair Cox said she appreciated having the DEP approval in advance as it explains a lot of the questions the Board may have. It streamlines the process some.

Tibbetts said he went over the map zone and the tidal wading ordinance with DEP, and the Federal and Maine IF&W reviewed it, had no concerns, and approved it.

Hewlett said, "One of the reasons, this is in a significant wildlife habitat. However, the DEP explains in their letter that other piers and wharfs are in this bay, already; and hence, why they did not, it would be unreasonable. Page 3 of 7, in their findings."

The Planning Board discussed and reviewed the policy and procedures on holding an on-site visitation inspection. Chair Cox said we usually do exactly what the ordinance says.

An on-site inspection visit was scheduled for Saturday, September 30, 2017 at 9 a.m.

Hewlett asked Tibbetts to put a float and buoy at the farthest end of the proposed structure.

There was no further business to be discussed. At 8:26 p.m., on a motion by Brown, seconded by Jordan, it was voted 5-0 to adjourn the meeting.

Communications: 1) Bryce and Gail Molloy's attorney
2) Ms. Amanda Meader

A workshop regarding proposing a cable landings ordinance for St. George was held directly after the meeting. On a motion by Emerson, seconded by Jordan, it was voted 5-0 to continue the workshop after 9 p.m., for one-half hour.

Respectfully submitted,

Marguerite R. Wilson
Planning Board Recording Secretary