

**St. George Planning Board**  
**January 23, 2018 – 7 p.m.**

The Planning Board meeting was called to order at 7 p.m. Members present were: Mary K. Hewlett, Jane Brown, Brendan Chase, Michael Jordan and Paul Gill. Also present: Richard Bates, Terry Brackett, Bruce Hodsdon, Betsy Welch, Rosemary J. Stanek and Carol Arness.

Nomination of Acting Chair: On a motion by Jordan, seconded by Brown, Mary K. Hewlett was nominated as Acting Chair. There was no further discussion. A vote was taken. The motion carried 4-0; Mary K. Hewlett assumed the position of Acting Chair Hewlett for the meeting.

**Quorum:** Paul Gill was elevated to voting status. A quorum was present.

**Conflict of Interest:** None.

**Adjustments to Agenda:**

The Cable Landing Ordinance was tabled.

The Resource Protection map was added to Other Business.

**Review of the Minutes:**

**Planning Board Meeting** – January 9, 2018 – A motion was made by Brown, seconded by Jordan to accept the minutes, as written. A vote was taken; the motion carried 5-0.

**Public Comments:** There were none.

**Subdivision Modification:**

**a. Old Woods Farm** – Modification of Approval Plan, 60 Old Woods Road, Map 215, Lot 15, 1 through 10

Betsy Welch represented the Old Woods Farm Homeowners' Association. The application is to make one change to the Covenant to allow paved driveways in the subdivision as paved driveways have been expressly prohibited. Welch said there was no disagreement from anyone in the subdivision and every property owner and every owner had signed off on this proposed change. Welch said they did made a change in wording to the Covenants by removing the word Developer and replacing it with Old Woods Farm Homeowner's Association. Their reason for the change was, at the time the Covenants were written, the Developer had all the responsibilities. The Covenant was written as, "the developer shall," but when the Homeowner's Association came into being a few years ago, the Association took over all the responsibilities of the Developer.

Acting Chair Hewlett said it appeared that all existing owners agreed with the change in Covenant and everyone had signed it.

Jordan questioned the wording on the Lot Owners' Consent because under Change #1, it referred to the Homeowners' Association and under Change #2, it referred to the Developer. Welch said that was the agreement change; it was not the change in Covenants, and she had not noticed that.

Jordan asked what the Board was supposed to be looking for to approve this application. What was the standard?

Acting Chair Hewlett read from the Subdivision Ordinance page 31, Section B. Amendments After Approval. She felt one of the things lacking in this section was - it did not clarify how the Board was supposed to proceed to accept a change in a Final Plan subdivision. She said (when the ordinance gets amended in the future) she made a notation in her manual that a paragraph was needed on changing existing subdivisions; the Board needed to come up with some type of language to tell them what to do.

Hewlett thought in this case, the Final Plan was included the on the mylar. Welch said it did, as far as she knew. Brackett said he was not sure if that was the case on this one because the Covenants were quite large. Welch said the whole Covenants were not on the plan. Brackett said these were a multi-page document, approximately 15 pages, and he doubted they made it to a mylar.

Hewlett said the only thing she could find in the subdivision ordinance that remotely involved amendments was Section 11, Enforcement B. Amendments After Approval. Brackett agreed and said when the ordinance gets modified, the Board should pay attention to that.

In reviewing the application, Hewlett said all the existing owners, including the bank, signed off and Brackett said Welch did provide what he asked for.

Chase asked about the allowance for hot top on a property. Brackett said you cannot cover more than 20% of your lot with impervious surfaces, but there was nothing that said you could not have more than 5% hot top or something like bituminous.

Welch: We are not looking for people to pave the entire drive. We want a minimal driveway because we are all tired raking our driveways out of lawns.

On a motion by Brown, seconded by Gill, the vote was 5-0 to accept the application as complete. On a motion by Brown, seconded by Gill, the vote was 5-0 to approve the application.

### **Ordinance Amendments:**

**b. Flood Plain Ordinance** – CEO Brackett reviewed the information on the handout. He said Michelle Phelps contacted him about one month ago regarding altering St. George's Floodplain Ordinance. He referenced page 12, Article VI. P. 2(b)(3) constructed to enclose less than 300 square feet of area with non-supporting breakaway walls which have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot. He asked the Planning Board if they wanted to strike that statement from the Ordinance.

Brackett said that Phelps was designing a structure on Scraggle Point and was having difficulty meeting the standard. Carmen Bombeck from Gartley & Dorsky has been amending Floodplain ordinances in a number of other towns in the area.

Brackett contacted Sue Baker, State of Maine Coordinator on flood plain issues, to discuss this. He said he thought it was making something less restrictive and the town could not do it. Baker said that it was not on regulatory side of the ordinance; it was something that she added into it. He said if the Board struck Article VI. P. 2(b)(3) out of the regulatory side, the town ordinance would still comply with the Federal ordinance and the wording would still remain in the insurance side. Insurance rates most likely would increase, but the applicant could build it. Brackett said if the Board supported this, he would do the preparation to get it ready for a public hearing.

Acting Chair Hewlett and Brown asked if Brackett supported it? He said yes.

Gill asked Brackett to explain this because he did not understand what it was about.

Hewlett said currently this article was talking about a VE Zone and in a VE Zone, you cannot have the foundation. You have to have piers, and this would be a structure on piers but had breakaway walls around it. It was limited to 300 square feet of area which is a small garage.

Gill asked Brackett what he meant by breakaway walls. Brackett cited an example. The new house in Wild Cat which has lattice around the piers. That would be considered a breakaway wall. Something that the water could come in and take it out. Nothing structural.

Brackett said Phelps was trying to design a garage that she would like to put a little lower into the ground and it was bigger than 300 square feet.

Acting Chair Hewlett said the Floodplain Ordinance was amended May 9, 2016 so all the other amendments in this document had probably been done. Brackett said he thought people did not notice what Sue Baker had put in, and it was not such an issue until the designing of structures started getting bigger.

Brackett referred to Michelle Phelps' email, dated 12/7/17, included in the Board's packet. He said the second paragraph in, talked about how it would specifically help the project that Phelps is working on. Hewlett said they wanted more than 300 square feet. Brackett said 300 square feet was a very small garage.

Jordan asked with this change, would it allow a house? Brackett said if you had a house in a VE zone, it would have to be built on piers and the lowest wood member (any carrying beams) would have to be one foot above the flood stage. That was different than the AE zones where the floor would have to be one foot above.

Hewlett said all this was doing was allowing more to be built underneath, as long as there were breakaway panels, and you could utilize the space below the floor timbers.

Brackett said you can have parking and limited storage in the VE zones.

Hewlett was concerned about flooding and damage.

Gill said if it was not compromising the structure of the building, it would enhance it. He thought it would look better if we allowed them to put some kind of lattice covering between piers.

Chase said the alternative was to build it high enough for a ramp.

Jordan said it was not so much about lattice as there was a separate paragraph under P.2(b)(2) about lattice which allowed you to do open wood lattice-work (unintelligible) without regard to the size of the structure. Section P.2(b)(3).

Chase asked what consisted of a breakaway wall? Brackett said there were a lot of different things that could consist of a breakaway wall one being they are not fastened to the structure in a substantial way. For example, you have not nailed them in with 16 penny nails, Gill said something that was designed with 10-20 pounds per square foot. Hewlett said, "So, water could go right through it."

Chase asked if the structure could be heated?

Brackett said it could be heated; but it is in your connections if they are going to allow the water when it comes in, to break the walls away instead of knocking the whole structure down. Basically, you are building a post and beam structure, here.

Hewlett said we are looking at page 12, P.2(b)(3) to strike. Jordan said strike the less than 300 square feet part and leave the rest of it. Hewlett said P.2(c) would still be there.

Gill asked if they could then actually build a stud wall in between these piers with like a friction fit or just tacked in there? And if water blows it up, as long as it complies, it could be a stud wall that has been shingled? Brackett said as long as it met the breakaway standards.

Chase asked if it would be considered living or finished space? If they could indeed heat it or electrify?

Hewlett asked, "It would not become part of the volume of square footage when we are looking at changes?"

Brackett said he believed this was only going to be for garages. Jordan said page 13, P.5. stated the area could be used solely for parking vehicles, building access and storage. He said it could not be used as living space.

Hewlett said it could not be used as living space, but would that become square footage if somebody wanted to expand in a VE district? She said that was the Mouse Island question.

Brackett said he did not think this lot would have volume issues, whereas Mouse Island lot was pretty limited. It was pretty much within the 75' buffer zone almost all the way around.

Brackett said it can only be used for parking vehicles and storage. He said you could have stairs going up into the structure. You cannot live in it.

Jordan said at this point, he did not see any reason the town should be more restrictive than the Federal rules and recommended striking the words "less than 300 square feet of area."

On a motion by Chase, seconded by Gill, the Planning Board recommended the words -less than 300 square feet of area - be stricken from Article VI, P.2(b)(3), Page 12 of the Floodplain Management Ordinance. A vote was taken on January 23, 2018, and the motion carried 5-0.

**Cable Landing Ordinance** (tabled): Jordan briefly updated the Board on the status of Cable Landing Ordinance. He and Chair Cox planned to make a number of changes to the draft based on input received at the workshop. He planned to have a new draft ready for the next meeting. The Board could then decide if further changes were needed or if it was ready for legal review.

Acting Chair Hewlett asked Select Board Chairperson Bates if it was true that Aqua Ventus pulled out of Port Clyde. Bates said Habib Dagher from the University of Maine announced, at a Boothbay meeting with fishermen, that the cable would not come into Port Clyde. Bates thought Daher meant to say, we are not attempting to bring it into Port Clyde. He also said they were now exploring areas on the east side of St. George and Boothbay. Dagher also requested a copy of the Board's ordinance. Bates said there was an article in Bangor Daily News which captured the facts.

Bates said it would be too bad if the ordinance could not be brought to the voters for the May 14 vote and wondered how long DEP would take to review it?

Jordan referred to Page 4, Section 8. Amendments, in the Shoreland Zoning Ordinance which suggested (to him) that the ordinance did not get submitted to the DEP until after the voters approved it. He did not know if this was the law as opposed to what the ordinance stated because it said you have to have adopted the ordinance, and all DEP can say is yes or no. Brackett did not think DEP would say no unless it was something major. Jordan suggested that everybody should read this section of the Ordinance. He thought it could be ready for the May 14 vote. Jordan said he had a few specific questions for Bill Kelley, the attorney who would be reviewing the ordinance.

Jordan said in creating a list of comments from the workshop, it occurred to him that the bulk of the relevant provisions more logically belonged in the Site Plan Review Ordinance than in the Shoreland Zoning Ordinance. He said, "That is because every last bit of everything that is going to be on the land is for commercial use. (Hewlett said good point.) Only part of it is in the Shoreland Zone, presumably."

Jordan said, "One of the things I was thinking of doing was to transfer most of the substantive provisions that we put as an amendment to the Shoreland Zoning Ordinance, move them to Site

Plan Review Ordinance. I do not see anything in the Site Plan Review Ordinance that says that that has to go to the DEP." Hewlett said it made a lot of sense and Brown agreed.

Jordan said, "That would leave only a few things where we are actually affecting the Shoreland Zoning Ordinance and that is the requirement that the cable be buried, and vegetation, and all that." "The only thing specific to the Shoreland Zoning that occurred to me, as I sit here, is that we have said that the cable is not subject to the water side setback requirement."

Chase asked if it tied the Board's hands in the future or did it give the town broader control over the applications coming in?

Jordan said he thought it was pretty much the same, as long as, they were putting in the standards that had to be met. One item he took away from the meeting was, they should expand the coverage of the ordinance to include, not just renewable projects that are offshore but conventionally powered projects that are offshore.

#### **Other Business:**

Brackett discussed the issue of the Resource Protection area. This was brought up several weeks ago by Will Gartley during the Long Subdivision application process. Gartley suggested that some of area be changed to Marine Residential because the Wildlife Habitat had changed. Brackett explained that there were other reasons why something might be in Resource Protection, and the Wetland Resource had not changed. Brackett said he was not saying that you cannot change that but was just giving the Board the facts. Brackett thought Gartley was trying to say the High Value Bird Habitat (HVBH) had changed.

Brackett said in 2008 the state changed the HVBH. Hewlett said our HVBH map had changed but our town had not updated the map. Brackett said nothing had changed on the Wetland Resource map, as far as he could tell. He was not sure why that area was put into Resource Protection. Hewlett thought Town Manager Polky might remember why that was, and who had been working on this with Les Hyde. Brackett asked the Board to review the maps, he would talk with Polky, and they would discuss again to see if they can get it to a yes or no decision.

There was no further business to discuss. On a motion by Jordan, seconded by Gill, it was voted to adjourn, 5-0. The meeting adjourned at 7:55 p.m.

Respectfully submitted,

Marguerite R. Wilson  
Planning Board Recording Secretary

