

**St. George Planning Board  
St. George Town Office  
July 14, 2020 - 7 p.m.**

The Planning Board meeting was called to order at 7:02 p.m. via Zoom. Members present were: Anne Cox, Chair; Jane Brown, Ray Emerson, Mary K. Hewlett, Michael Jordan, and Alan Letourneau. Also present: CEO Terry Brackett, Richard Bates, Sean Carlson, Michael and Ann (Elizabeth) Smith, Will Gartley, David A. Noonan, Joshua Carle, Joe Talbot, Michael Gero, and David Emery.

**Quorum:** A quorum was present.

**Conflict of Interest:** None.

**Adjustments to Agenda:** The following adjustments were made.

- Site Plan Review for Sean Carlson was moved and taken up directly after Review of the Minutes
- Added under Other Business: Discussion regarding the Planning Board Format; Request from the Conservation Commission Regarding Resource Maps; Write an Article for the Town's Newsletter Regarding the Sign Ordinance; a Discussion on How the Planning Board will Move Forward with Ordinance Review.

**Review of the Minutes:**

**Planning Board Meeting** — June 23, 2020 – The minutes were corrected as follows:

Page 4, #20, Lot Standards, line 2, change to read: **The setback standards will be met because the footprint will not be increased.**

Page 5, paragraph 1, line 5, change and to **an**

Page 8, under b. Port Clyde Lobster, Maine LLC, amend to say: **The applicant's representative was present via Zoom at the beginning of the meeting and was dropped from the meeting due to a technical glitch.**

Page 6, paragraph 8, line, change the word with to **without.**

A motion was made by Jordan, seconded by **Hewlett**, to approve the minutes of June 23, 2020, as amended. The vote was 5-0. The motion carried.

**On-Site Inspection – Sean Carlson, 66 Mussel Farm Road, June 29, 2020**

The minutes were corrected as follows: Page 1, paragraph 3, line 6, insert the word **at**

A motion was made by Letourneau, seconded by Hewlett to approve the On-Site Inspection Minutes of June 29, 2020. The vote was 5-0. The motion carried.

**Public Hearing Minutes – Steve Jarrett, 5 Clark Hill Cemetery Road, June 23, 2020**

Page 1, paragraph 3, change to read: ... and no public comments **were** made.

A motion was made by Jordan, seconded by Letourneau, to approve the June 23, 2020, Public Hearing Minutes, as corrected. The vote was 5-0. The motion carried.

**Public Comments:** None.

**Site Plan Review:**

**a. Sean Carlson, 66 Mussel Farm Road / Map 222, Lot 027**

Sean Carlson was present. The application is to have two, 40' x 8.5' trailer bodies set side by side to be used as bait freezers. These will be set up next to an existing 10' x 20' miscellaneous building which will be used to power the freezers. An on-site inspection was held on Monday, June 29, 2020, at 5 p.m., and the Public Hearing was held at 7 p.m. prior to tonight's meeting.

The Planning Board reviewed the application. Chair Cox asked Carlson about the decibel level of the motors. Carlson said the level from each motor will be around 80 decibels but could be cut in half with stacked hay around the motor and muffled almost down to nothing.

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

The Planning Board began the Site Plan Review.

1. Preserve and Enhance the Landscape – On a motion by Hewlett, seconded by Brown, standard has been met, 5-0. The landscape has been enhanced by the leveling of the area to install two bait freezer units and the miscellaneous building with electricity.
2. Relationship of the Proposed Buildings/Structure to the Environment – On a motion by Jordan, seconded by Hewlett, standard has been met, 5-0. This area is working waterfront property. The proposed project fits in with the practical use to which it is being put and is consistent with the terrain, environment, and existing buildings in the vicinity.
3. Vehicular Access – On a motion by Jordan, seconded by Hewlett, standard has been met, 5-0. The proposed site for the freezer units will not affect vehicular access.
4. Parking and Pedestrian Circulation - On a motion by Jordan, seconded by Hewlett, standard has been met, 5-0. The proposed site for the freezer units will not affect parking or pedestrian circulation.
5. Surface Water Drainage - On a motion by Brown, seconded by Hewlett, standard has been met, 5-0. The lot has been prepared with a crushed stone foundation and the natural occurring granite rocks will provide adequate stormwater drainage.
6. Existing Utilities - On a motion by Hewlett, seconded by Brown, standard is not applicable, 5-0. The two bait freezer units will not utilize any sewer, sanitation, or storm drains.
7. Advertising Features - On a motion by Hewlett, seconded by Brown, standard is not applicable, 5-0. There will be no advertising features on the two freezer units or on the miscellaneous building.

8. Special Features - On a motion by Letourneau, seconded by Brown, standard has been met, 5-0. No neighbors objected to the installation of the freezer units at the proposed location. The noise level is 80 decibels and is not excessive as it is equivalent to a lawnmower. If there are any complaints regarding the noise level, the Code Enforcement Officer will work with Carlson to muffle the sound to an acceptable level.
9. Exterior Lighting - On a motion by Jordan, seconded by Brown, standard has been met, 5-0. The applicant states the exterior lighting will be down shielded.
10. Emergency Vehicle Access - On a motion by Brown, seconded by Hewlett, standard has been met, 5-0. There is sufficient space for safe emergency vehicle access to all buildings and structures at all times.
11. Municipal Services – On a motion by Letourneau, seconded by Jordan, standard has been met, 5-0. The proposed project will not have an unreasonable impact on municipal services.
12. Water/Air Protection - On a motion by Brown, seconded by Jordan, standard has been met, 5-0. The proposed project will not result in undue water or air pollution; there will be very minimal disturbance to the water or the air.
13. Water Supply - On a motion by Hewlett, seconded by Brown, standard is not applicable, 5-0. There will be no water on the site of the proposed project.
14. Soil Erosion - On a motion by Brown, seconded by Jordan, standard has been met, 5-0. The installation of the two freezer units will not cause unreasonable soil erosion as the terrain is mostly granite and the freezers will be placed on a gravel foundation.
15. Sewage Waste Disposal - On a motion by Jordan, seconded by Hewlett, standard has been met, 5-0. There will be no sewage waste generated at this site.
16. Hazardous, Special, and Radioactive Materials - On a motion by Brown, seconded by Jordan, standard has been met, 5-0. The two freezer units will store bait. In the future, Carlson will install a generator and propane tanks to serve as backup power for the miscellaneous building and bait freezers. The propane tanks will be placed 75' from any lot line. Carlson states he will install the propane tanks in a safe manner, and they will be located behind the miscellaneous building.
17. Financial/Technical Capacity - On a motion by Letourneau, seconded by Brown, standard has been met, 5-0. The applicant has been forthcoming in his statements and demonstrates he has the financial ability to carry out the project.
18. Shoreland Zone - On a motion by Jordan, seconded by Hewlett, standard has been met, 5-0. The freezers will be installed on a crushed stone foundation, will not cause unreasonable erosion and they will meet the 75' setback.
19. Flood Plain – On a motion by Letourneau, seconded by Jordan, standard is not

applicable, 5-0. This project is located outside the Floodplain.

20. Lot Standards – On a motion by Letourneau, seconded by Brown, standard has been met, 5-0. The Planning Board held an on-site inspection and reviewed the applicant's design plan sketch. The applicant met all the setback requirements for structures and the project is below the maximum lot coverage percentage.

On a motion by Jordan, seconded by Brown, it was voted 5-0 to approve the application pursuant to the Performance Standards Review, Section V, A1-20 in the Site Plan Review Ordinance with the following conditions: If there are any complaints regarding the noise level, the Code Enforcement Officer will work with Carlson to muffle the sound to an acceptable level.

### **Building Permits:**

**a. Michael S., Katherine F., and Elizabeth C. Smith, 50 Shipyard Road / Map 216, Lot 024**  
Will Gartley of Gartley & Dorsky Engineering & Surveying, Inc. represented the applicants. Michael Smith was also present. The application is to replace the failing foundation and make structural reinforcements to their residence located at 50 Shipyard Road. The Shoreland Zone District is Marine Residential; the Floodplain Designation is AE-12.

Gartley gave an overview of the project. The applicants have had a house on this property since the early 1970s. This piece of property is part of a larger parcel which was part of the Smith family. Over time, the piece of property has been broken up and they are surrounded by relatives.

Gartley stated this project started with Michael and Ann working with Christian H. Fasoldt, Architect, Camden, Maine to do some minor renovations and upgrades. Fasoldt contacted him and their structural team (at Gartley & Dorsky) was asked to assist in looking at the house, the structure, and mainly the foundation. Gartley said his team pretty much told them they needed a new foundation. He said part of this building is within 75' of the setback which means under the town's ordinance they have to move it back to the greatest practical extent.

Gartley said for multiple reasons, they did not give them good news but since then his team has been working with them to figure out how to make it work. Gartley included photographs that show what the building is supported by. It is initially block. He said some of the block is stuck into the ground a little bit, some of it is cracked, some is rotated. He said they tried to find a way not to trigger the portion of the ordinance that said they had to move back to the greatest practical extent. But Gartley said it did not make sense for them to put money into this building without first supporting it well and correctly. Gartley said that led them to try and come up with moving back to the greatest practical extent. A copy of the boundary survey, Sheet V(1) was included in the packet.

The Planning Board reviewed Gartley's maps in their individual packets. Gartley pointed out where Michael Smith, Katherine F. Smith, and Elizabeth Smith's property is and said it is a bit of an odd-shaped parcel; it wraps around another small building on the shore. He pointed out the Philip Smith parcel and said the boathouse is directly to the south of their house. He stated that

Michael's parcel is encumbered by a lot of easements and a lot of restrictions. Gartley stated there is a view easement on the northeasterly part of the parcel, and it is designated by the magenta dotted line.

Gartley said when this property was broken up in the 1990s between Michael and his brother, Philip, the view easement was agreed to and they told Gartley there is an easement (and they have a plan that shows that). But when Gartley's partner, Jim, was doing the boundary survey, they could not find anything recorded and that was when Michael and Philip realized that they had agreed to a view easement that never got recorded. Gartley said, so the view easement got recorded (today) July 14, 2020, and he had a copy of it in his file. Gartley stated the view easement was something their father did when he split the property up. It was not something Michael was interested in trying to go back on as the view easement provided Philip with a view of the harbor.

Chair Cox asked about the width of the view easement. Gartley said it is from the property line which is the stone wall further west to the magenta line that has the label. That whole area is the view easement.

Hewlett asked who owns the boathouse? Gartley said it is actually on Michael and Ann's property, but multiple family members have easements for use and access and are represented by the pink/purple dash lines on the map. Gartley said so there is an easement across the driveway. There is another 10' wide easement that heads to the south towards the driveway on the other side. The septic system is in the southerly most portion of the parcel and where the label Michael Smith, Katherine, Elizabeth is, that whole area and that back portion is wetland. There are some overhead power lines that go from a pole on Philip's property to a pole kind of in the middle of this property to the boathouse and to another property to the south.

Hewlett asked if there is space behind the existing structure. Gartley said yes and shown on Sheet C (1) of the Site Plan. He stated, "As I said originally, the house, we were not necessarily looking to tear this down and start over. The main portion of the cape and the style of the house is what they want to maintain."

He stated the heavy dash black line shows the existing footprint. The part shaded in brown is basically the same footprint, and the yellowish shaded areas are decks moved back 5' from where it is. Gartley said that 5' back and over slightly keeps them further from the high water on all sides. It decreases the amount of the building proposed to be within the 75' setback compared to what is there now and it keeps the entire new addition part completely behind the 75' setback. It maintains about 8' to the well which they feel like they need some space to maneuver and get foundation and excavation in there. It maintains only 2' on the west to the view easement and 5' to 6' to the easement on the left and 7' to their easement to the driveway.

Gartley stated there is one 20-inch spruce tree that is within the footprint and that will have to come down. That is really tight to the existing house and probably needs to go anyway. But they were hoping to save the other 28" spruce and the spruce trees around the drive-way because that cluster of trees on the sides of the driveway provides them a little of buffering between Philip's house which sits right behind them. They have trees selectively placed to provide

buffers to all the houses that are all clustered in here. The only space that they can expand further into is where the 28" spruce tree is, and they are hoping not to take that down.

Hewlett asked about the 50% replacement value.

Gartley said he didn't bring that up because it did not seem to matter. "Certainly, if we put a foundation under it, we have to move it back to the greatest practical extent which is the same standards if we destroy more than 50 percent. I think if we answer the question once, it's the same. I think doing the whole 50% value is always such a little a bit of a hassle, I think. It is not all that realistic to try to get your head around. Since the foundation part kicked us in, we focused on the fact that we need to move it back to the greatest practical extent.

"Because we did originally toss around if we can maintain 50% of this – they would like to maintain the major portion of the cape and only re-do the wing that goes off to the south – but it's still going to be questionable whether they are keeping 50% once they lift it up and put a foundation under it, tear that piece off, put a foundation under that, and then rebuild that. So rather than, try to go through that whole exercise of proving that we are or aren't, and then worrying about once you start lifting it, whether or not you can replace or repair more of it than you planned on, I just felt like we need a new foundation. That kicked us into having to move it back to the greatest practicable extent, so let's just move on."

Hewlett asked if they are anticipating demolishing the entire structure during this. "I know you are trying to maintain the look and I understand that."

Gartley, "I certainly don't want to preclude that from happening. If when we get ready to lift this thing and make all these changes, it turns out that the contractors tell us there's something bad or it is going to be more costly to try to fix everything, then we certainly want the ability to replace it all."

Chair Cox asked, "It looks like there is an easement on the gravel drive that leads down to the boathouse, is that something that needs to be exactly where that is or is that something merely needs to allow easy access to the boathouse or that it could be shifted over?"

Gartley, "Historically, it has been there for a long time. It would take everybody that has the right to use that to agree to move it, everybody that has deeded access would have to agree to it. Then to move it would require taking out some pretty significant trees. From Philip's perspective, in the back, I could see that he might not necessarily want to see the house right in front of him. I don't know if that discussion has been had by the family members, but I can see it not being easy."

Hewlett, "If that was the only alternative in an effort to get everything behind the 75' and it is all family members that are using this boathouse, and they've been kind enough to record the new easement which never got recorded until today, I would hope that all these family members would be working together to make this happen for their brother."

Gartley, "So the view. The only person that had to agree to the view easement was Michael and his brother Philip. So, Philip was obviously going in favor because it was originally to benefit him."

Hewlett, "Actually, it is hurting Michael."

Gartley, "It is hurting Michael, but Michael had no interest in creating... Michael and Philip both thought it existed. They told us it existed and when we researched it and told them it didn't, they were very surprised. So, we told them that they really should get that done regardless of what we do moving forward."

Hewlett, "That's where the question came, 'Well who exactly has an easement to this boathouse?' You mentioned all family members."

Gartley, "It's definitely it and I think Michael is on and he might be able to tell me better."

M. Smith, "When my father broke all this up however many years ago that was, where my brother's house is now was just a field and my brother wanted to build a house there. He said if I build this house, I need the view easement in front of me. Otherwise, I will just be looking at someone else's house. As Will said, we all thought that had been done and somewhere along the way it was not. You have seen the proposed survey where that was.

"In regard to the boathouse, at the same time he granted a lease to my brother to use the boathouse, it was actually used as a boathouse. My brother stores a couple of boats in it and there needs to be swing room to come down and for people to get into and access the boathouse from the northeast side, the side facing my house. You have got to be able to come down the driveway where its always been and swing in. My sister and her offspring and my brother and his offspring, Philip W. Smith IV and Courtney C. Smith have access down to the dock which you can see off the property, as well."

Hewlett, "Who is currently using the roadway by your house?"

M. Smith, "You can see from (unintelligible) a straight south side, we use that as a parking lot. The road coming down between my house and the boathouse, we use this. We sometimes put a car there. The kitchen is on the north side, so we drive the car down to offload the groceries and like that and my brother and his kids use that road to access the boathouse, the Boston whaler, boats or whatever are kept in there."

Chair Cox, "If we said, we really need to try to move this back a little bit more, do you see any way to move it back a bit more, where the well is?"

Hewlett, "A new well could always be drilled." Chair Cox agreed.

M. Smith, "The only thing I'll say about that is, of course; but I know very little about it except if you look on the survey there was a well up as the driveway comes in from the west. There was a well there that ran dry. You can see it is next to one of the trees. That well is dry. My father

dug another well where it is now, and that has been working fine. I honestly don't know when he dug it but there is a lot of ledge; it would be the backside of where the parking lot is, south of the house. As you end up in the parking lot, it starts out about 4' straight up (unintelligible, everyone talking). But there is ledge there and it is always the (unintelligible). One of the problems that I understood with the foundation was it was supposed to be **pinned** into the ledge and the ledge is only 4' or 5' below the surface. As it checked out, the foundation wasn't really anchored at all. My point is, there is a ton of ledge there, so I don't know how difficult it would be to drill it or how hard it is to drill through ledge to find water."

Gartley, "I mean, they could definitely drill a new well. You just never know what you are going to get for water quality. You've got the well that is behind the house and down to the driveway. Between that driveway area and the 16" and the 36" spruce, that is the area that they were talking about - the ledge climbs pretty fast. If the house moves back and the driveway to move back, that would be difficult because that driveway is all ledge above it."

Chair Cox, "It would be too steep."

Gartley, "It would be too steep. The driveway would be up higher than the house. It's definitely a (unintelligible). It is tight there but this house has been here since the 1970s."

Hewlett, "This 75' setback. We are really, really sticklers on especially when we realize that you really are probably going to end up juggling this."

Brackett, "For one thing, it looks like the new building of the revitalized building is larger; is longer than the existing building. So, if you are looking at it from the water on the right-hand side, it looks like they have expanded that towards the water some."

Gartley, "It is a little bit further to the north, but it is not any closer to the water than it was before. The closest point was 28.5' prior and now the closest point to the water is 29.1' on that northerly corner. So, we haven't increased any part of it in its proximity to the high-water line."

Brackett, "I dispute that. But anyway, I feel that that building can be moved back more than it has been with a little bit of effort."

Chair Cox, "When I do the overlay, I took the existing building and I overlaid it on this, and indeed the new structure does shift back a bit. So, where that dash line is on C-1, is in front of where the yellow colored deck is. It has shifted some."

Brackett, "It has shifted back approximately five feet, yes."

M. Smith, "The reason that that end of the building, the southeast, that we are discussing, we are making it larger. When that was first built in the 1970s, my brother and I lived out there. There are two very small bedrooms and a very small bathroom. Times have changed and I now have two daughters who are in their late 20's, early 30's and what we are trying to accomplish is having a two-bedroom, two sitting room, two bath area, and when they come to visit, we can all exist in harmony. The rooms that are currently there were absolutely fine for teenage boys not so



much for 30-year-old daughters, with families in the not too distant future. That is being made slightly larger, but we are also cognizant of the 75' setback and want to make sure that moved back."

Brackett, "But unfortunately, the ordinances don't care about who is living there if the structure needs to move back as far as practicable. Colin Clarke from DEP wrote to me today and said that 'You have to move the building first and then do the expansions afterward.' I feel that you've done the expansions and then moved the building as far as you can."

M. Smith, "I'm not sure that's right and I will let Will speak to this. The part of the building we are expanding is already outside of the zone and we are moving it further out of the zone."

Brackett, "But I think that's defending you in your mind at least from moving it back further. That 28" spruce tree. That can be replaced. The tree is probably getting to the end of its life and it is probably going to get ants in it soon. As far as trees go, we can replace those."

Hewlett, "That area would be a beautiful bedroom for one of your daughters. But seriously, you've got so many constraints. If you were to knock that tree out, all of a sudden you have a lot more square footage and you can move everything back."

Gartley, "The problem is the main part of the cape is the part that is not behind the 75' setback."

Chair Cox, "Would it be possible, let's face it, you are building a house for the future. We have sea level rise, so you might be glad to be moving it as far back as you can."

M. Smith, "When we met with Terry last year, my first question was that I hopefully don't (unintelligible) four or five feet. And we were told that we can't do that. I'm well aware of what is coming."

Chair Cox, "I am wondering if in terms of maybe there is a way to rethink the structure of the space and maybe it can move a bit further back with a slightly different configuration."

Hewlett, "And, possibly that right of way to the boathouse really could be shifted a little bit to the west."

Chair Cox, "If that right of way was shifted so that you still kept the nice, easy sweep to be able to get in but to allow you to configure things differently."

M. Smith, "Moving it to the west will just move into the building. You mean the east?"

Chair Cox, "Into the easement. The driveway easement to the boathouse. If that was slightly reconfigured so you could still get in, you could shift the building. I know the road has been there for a while, but that could shift and give you some wiggle room."

Hewlett, "It is certainly in a unique position in that it's all family members and I think you are all trying to do the same thing."

Chair Cox, "So, it is just a question."

M. Smith, "Where the driveway comes in, it passes in front of my brother's house and starts to curve down. Yes, trees can be replaced but there are some very tall trees on either side of the road and in that little space you were talking about there is probably (Terry and Will have seen them) 30' to 50' tall spruces. As Will eluded to earlier, they are beautiful trees and the house settles in much better as opposed to a house sitting out in the field which is the last thing we want. We wanted to kind of snuggle in. As you come down the driveway, there is some open space but it's ready open space, it's on the backside of the tree to the beginning side of the boathouse. It's not that great. We couldn't slide the house over in behind that." Ms. Smith commented that it is very tight to step into the boathouse, now.

M. Smith, "As an example, to leave the front parking lot to get out of the house and drive out the driveway, you can't take that turn. You have to go across that easement into the other field/parking area and then head out. It is a very tight turn as it is. When you drive in, you can drive in pretty much on a straight shot but backing out, you can't maneuver around that. You have to go straight back across and then go out so it's very tight. So, to gain some space to move the house back, and back I assume you mean, the main part of the house would be back closer to say the well, that could potentially work. Where the expansion is, moving that back, that is already out of the zone."

Chair Cox, "But if you move the whole house. If you think about it. I understand what Terry is saying is first move the house and then do your addition. I think we can think about what is involved when it comes to practical construction if all approval is given (constructed at the same time). But if we think about, okay we want to move the existing house as far back as we can then figure out what the addition would be on it and it may be a different addition from what you have figured out already. Does that make some sense?"

Gartley, "I hear what you are saying about that. I think that our approach to this was more starting with the existing cape portion of the house that they had hoped to save. They kind of hoped to save the orientation and how it has historically been. So that is why we started with that box and moved it back until we were only a couple feet from the easement and what we thought was a reasonable distance from the well to save the well. I know a new well can be drilled but a new well is another \$10,000. There is a cost there to all of this that we were trying to find a balance for. So, that is how we got to where we were. We were basically starting with the main part of the cape, the northerly part, moving that back. Then we put the addition on because we had room over there to do it."

Hewlett, "Can you go up? You are going up 24' right now. Can you go up?"

Gartley, "Elevation wise?" (Hewlett said yes.) "We can't raise it any higher than it already is."

Chair Cox, "We can't do that."

Brackett, "That is only in the buffer zone. Anything behind that, you can."

Hewlett, "Yes, once you get out of the 75' setback then you can go up." Gartley said right.

M. Smith, "But we don't want to build a McMansion. I would prefer not to go up. There are two floors in the main part of the house, now. There's currently the addition that we are increasing that is outside of the zone, is currently one floor and we are going to make that two floors but that is already out of the zone. I am not sure we'd gain anything by going up. And we're tapped out at 22'-24' feet. If we go back and make the main part of the house three stories, you are getting into changing the whole character of what's always been there." He said their goal is to make this for Ann and him to live there and have their daughters come and stay as well. So, having a kitchen and a living room in between them works for a much better relationship with the families.

Chair Cox, "One thing I need to say is that I do appreciate that when I do the overlay, you are trying to push it back. It has pushed back a bit. So, that I think, is a positive. I am simply wondering if it could be pushed back even more -the main part of the house. And could it be reconfigured, drawing into that little triangle between the right of way and the current parking? If that would at all work."

M. Smith, "The right of way to the boathouse and the?"

Chair Cox, "Right. There is a little triangle between your parking area."

M. Smith, "Where there is a very large tree that is buried? We would chop that tree.... That's not where the main part of the house is. That is more to the west. It is the main part that we are backing up. Will can speak to this, how close we can get to the well. We can certainly move back some to the well. That triangle is not the right spot, unfortunately."

Chair Cox, "It seems to me that if we say it feels like it might be practicable to move back over a little bit. The easiest thing is to keep the design you have, knowing that you would lose some mature trees and that there would need to be a reconfiguration if that were at all possible of your right of way to the boathouse. I don't know if that is at all practicable? You're saying not?"

M. Smith, "I don't know if we need to go see the site? So, show us why it's not."

Gartley, "I was wondering. I know that Ann and Michael are anxious to know what they can and can't do so they can get moving but part of me is wondering. On paper, it looks easy but when you're standing there, it feels a lot harder."

Chair Cox, "We did have a similar application a few years ago on Wallston Road, and we did go and look at it. They made some changes. That would be a possibility."

Hewlett, "If they were to eliminate the front deck and maybe have a patio instead and then pushed it back a little bit, you could probably get out of the 75' setback."

Gartley, "A patio counts as structure, too." Cox said that would be no different.

M. Smith, "The best part of the house is the deck. We sit out there in the morning and have breakfast. We sit out there in the evening and have cocktails and there is an enclosed part that is to the south of the actual outside deck. That is an enclosed glass porch where we have dinner and such. That is where we get that you are looking at the harbor so that makes the whole house. That is why my father built it there 45 years ago and aligned it the way he did. The more we move back, the more of the view out of the harbor, we are looking towards Whitehead and can see the lighthouse. We lose that."

Chair Cox, "I am wondering if we need to go and see?" (Smith said absolutely.) Chair Cox, "Let's get that 75' line. Let's be clear where that is and let's look at the constraints because you have personal connections and we are trying to look at the land use connections. Let's go look at the land in general."

Hewlett, "We are really, really tied back by this ordinance, so we need staking done."

Chair Cox, "I understand that you want to move along on this as soon as possible. Terry, if we do a site visit for the Planning Board, we don't need a public notice, do we?"

Brackett, "I don't believe so." Chair Cox said it may be in our minutes, but we could just decide we would like to visit the site.

M. Smith, "We're in New Jersey, right now. We are coming up next week. We will be tested before we come and will wear our masks. We are coming up Wednesday, July 22, and will be there for about one month. Anytime after that, we'd be happy to walk around and discuss it."

Gartley, "Michael, we can go down ahead of that and put some stakes in the ground so everybody knows where the 75' setback is and then in the meantime, we can look at it a little harder and see if there is anything else possible and get ready for that meeting."

An on-site visit is scheduled for Monday, July 27, 2020, at 5 p.m.

Letourneau asked if this application is being treated like a nonconforming structure or as a new construction. Chair Cox stated it is a nonconforming structure.

**b. David A. Noonan, Wildcat Quarry, LLC, Atwood Quarry Road / Map 219, Lot 059 (Pre-application).** The application is for granite grout recovery located on Atwood Quarry Road. The Shoreland Zone District is Marine Residential. The Floodplain Designation is AE-12.

The applicant appeared to be logged onto Zoom by audio but was unable to participate due to a computer glitch.

CEO Brackett stated that since the applicant filed the application, he talked with MMA and MMA legal and included that information in the Planning Board packets. Brackett believes the

Planning Board has grounds to hold a site plan review, but the Planning Board needs to discuss this with Noonan, Carle, and Talbot what the plans are.

Carle, "We are going through the old piles of granite that were discarded when they were quarrying originally and taking the stone that we can repurpose and extracting and then leaving the stone that we cannot use."

Chair Cox, "You have already been working there for a while?"

Carle, "Yes, over a year."

Chair Cox, "Help me understand this. I know it was a quarry, but it hasn't been operational in quite a while."

Carle, "Yes. It hasn't been open as far as quarrying. There are large piles along there and we are going through those, taking stones that can be repurposed and leaving the stone that isn't."

Chair Cox, "Is there a crushing operation that is part of this?"

Carle, "No, we use landscaping stone. We sell and fabricate landscaping stone."

Chair Cox, "I believe we have a copy of the contract that mentions possible crushing activity? Is that correct?"

Carle, "(Unintelligible) agreement. Is that what you are referring to?"

Cox, "Yes. On page 4, rock crusher, (unintelligible) to limit the use of the rock crusher to blank hours a day between the hours and blank and blank."

Carle, "(unintelligible) utilize. Or any other."

Chair Cox, "How long do you think you will be pulling granite out from there?"

Carle, "I think that my contract with David is for a year. As long as I'm in business, I guess."

Brackett said he did not send the Planning Board the whole contract but he referred to page 4 and it stated, "This agreement shall be in effect for five years from the effective date of the agreement."

Chair Cox, "Or until the mounds are even with the surrounding granite or the supply has been exhausted." Carle stated he was wrong, it said five years.

Brackett said at some point in the contract, he read that Atwood Quarry could bring in other companies; that is, they are not limited to just Rockport Granite.

Chair Cox said when Brackett spoke with MMA, one of the questions raised was this a new use?

Brackett, "That was something that they discussed, and they felt it is a new use."

Chair Cox, "I think I have a number of questions like, what are the hours of operation? The question about the crusher. The length of the recovery work. The level of activity at any given time. What is the plan for the site after the rock has been recovered? Leave it or do restoration?"

Brackett, "Again, I think his contract covers that. I think that they can dig down up to 7 feet to recover materials and then it is supposed to be filled in. But I am not sure exactly how it is supposed to be filled in and to what levels."

Chair Cox, "Right, and with what?" Brackett said that is correct.

Carle, "Typically 30% to 40% of the stone is usable. So, in that case, there is plenty of stone left there to fill in anything that we have taken so far, and I would imagine in the future as well."

Chair Cox, "It seems to me if we agree that this is a new use and it is not a continuing of quarrying but the reformation is a new use, then it would be for Site Plan Review. Then we would need to have a site visit-inspection so abutting neighbors could be present to see and voice any concerns they might have. Does that make sense?" Planning Board members agreed it made sense.

Jordan, "I gather once upon a time when a lot of quarrying was done around here that's a place where quarrying was done. (Cox said yes.) When was the quarrying operation concluded?" Cox did not know.

A public member, Eliza Bailey, commented, "I can speak to that Anne. I believe it was suspended in the 1940s."

Jordan, "So, this application is for the first bit of extraction to be done after the quarrying was over and done with, or has it been in the past?"

A public member, Eliza Bailey, commented, "I believe this is the first of any size. I think minor amounts may have been taken of small piles of paving stone and that sort of thing but nothing of size."

Chair Cox, "This seems like a different use, anyway from the quarrying operation that was suspended in the 1940s because this was what was leftover and it does seem like a scale that is different from a few pickers going in."

Jordan, "It looks to me from reading the ordinance that is, that if this is just an ongoing continuation of something that has been going on since before the ordinances enacted in 1989 or around that time then there wouldn't be a new use. But it doesn't sound like that is the case, at all so I think it is a new use." Chair Cox thought it did seem like it.

The Planning Board agreed to hold a site visit and notify abutting neighbors. Hewlett also suggested that in notifying abutting neighbors, take into consideration that they are working all over the site, so the Planning Board had to go per site to check on neighbors. She said she was thinking of the Wildcat Quarry area. Chair Cox referred to the map and said Brackett had pre-exempted a radius from all boundaries.

Brackett said it is the three entities from the boundaries. Jordan noted that it is all one lot. Brackett said it is a 15.12-acre lot and there are not a lot of abutters because the water is on one side and TD Bank owns Wildcat Lobster. He said there are a few neighbors, but it shouldn't be a tremendous amount.

Hewlett, "Yes, all those people on Haskell Point Road." Cox said they were not all abutters. Brackett said some of them would be but not all of them.

D. Emery asked to speak. "We have a perpetual right of way (the Haskell Point Road Association) across the causeway from Rt. 131 into our property. As I understand it, the mining operation is not taking place on what is the TD Bank property. Nevertheless, our concern is that if that giant pile is destabilized in any way by this operation in the proximity of that pile, our road could be destroyed or blocked which would essentially eliminate the possibility that 19 properties would be isolated from the rest of the town which obviously would not be a good thing."

Chair Cox, "Correct. So I think, when we go and do the site inspection, those are the kinds of questions and at the hearing that will follow, that we will absolutely need to raise to understand what the plan is, and how far away they are going to be staying from that. We may need to get an engineering audit, as well."

Emery, "I wonder if it would be appropriate for the Haskell Point Road residents to be included in the invitation for the site visit and subsequent discussions?"

Chair Cox, "Because of this right of way that everyone has an interest in and the right of way that goes through the parceled property. I do not know precedent on this. Seems reasonable to me but I am not sure."

Hewlett, "Hopefully one of those people are within 300' and they could work with the Association to get the word out."

Chair Cox, "How about this? If we include the official notice to a point person for the Haskell Point Road Association since it runs through the right of way through the property? David, are you the President of the Association?"

Emery, "I am not the president. Eliza Bailey is the president. I hold the title as Road Commissioner. So, I think it's okay to come to either one of us. Certainly, Eliza since she's the Association President."

Chair Cox, "Maybe that would be the way to do it because the right of way runs through the property to make sure Eliza gets the notice as well."

Emery, "That would be very helpful. I would appreciate that."

Gero, "I too am a resident of Haskell Point Road and for the next two weeks, I'll carry the title of Treasurer and then somebody else will take that over. But I am wondering if it makes any sense to consider the fact that the HPRA annual meeting is scheduled for the 9th of August and all the members of the Association will be there. So, when Eliza reports back, all the residents of that Association will have a chance to consider what has been said and so on."

Chair Cox explained that the August 3 was an on-site inspection for the Planning Board to ask questions and the Public Hearing will be the time for the public to ask questions and make comments.

Carle, "I may be speaking out of turn but my contract with David is confined to certain areas of his property. It doesn't come near that road (Haskell Point Road) and the boundaries to what I am able to access are well inside of his setbacks. I don't see any possible way of getting anywhere near the Haskell Road."

Chair Cox, "That's what we will see at the on-site. We will be able to see exactly what your boundaries are and what the protections are."

Hewlett, "I think the one question that will come up is if you are taking the backside of Wildcat mound, how are you stabilizing the front side? I think that is what Haskell Point is worried about."

Letourneau, "Where will we meet for the onsite?" Brackett said he would send directions and there is plenty of parking there.

#### **Other Business:**

- Planning Board Format: The issue was raised at the last meeting about continuing to meet via Zoom. Chair Cox had sent an email to all Planning Board members asking for their input. She felt meeting by Zoom was not desirable, but people still needed to use caution regarding the coronavirus and to continue to maintain distance with all the visitors in town.

Hewlett stated she would like to meet in person, but she would not be inside a building for any length of time for quite some time.

Jordan asked if they could find a way to help him get onto Zoom. Richard Bates will talk with Jordan and try to figure out the problem.

- Conservation Commission's Resource Maps: Chair Cox said she received a request from the Conservation Commission (CC) asking if the Board would look over their resource maps posted online and get back to them if they had questions or requests. Cox said wetlands inventory was an issue and asked Brackett if the Planning Board had asked for new mapping to take place



which reflected the National Wetlands Inventory. Brackett said he has had several conversations with Leticia (one about one month ago) and she was going to be working on pulling some of those items together.

Brackett said on the other side of the coin, he had been talking with Colin Clarke at DEP and they do not use any wetland maps, per se. They do "boots on the ground." Brackett said Dustin Dorr was down yesterday looking at a couple of sites. Dorr used his auger to bore into the ground to see where the wetlands were and if wetlands were there.

Chair Cox said she went back and looked at the minutes and that our ordinance currently references two resources to determine the wetlands, one of which no longer did. She thought "boots on the ground" would be the best thing, and Brackett thought it would be best to have DEP come down and check those out in person.

Cox said the CC would be doing wetlands maps. She recommended the CC use the National Wetlands Inventory on their maps but there might be other things with the other maps. Over the years, Brackett said he has shown people the resource wetlands maps and found them useful and agreed with Chair Cox that these are stated to be resources, not definitive.

Jordan asked for clarification of "boots on the ground." Chair Cox said in cases where there is a dispute about whether an area is wetlands, the Planning Board should get someone from DEP or another engineer to determine whether it is a wetland area.

Jordan asked, "In order for that to work, don't we have to amend our ordinance?" Brown and Chair Cox agreed.

- Sign Ordinance: Chair Cox stated the sign ordinance will be on the warrant and voted on in August at town meeting. She thought it would be good if the Planning Board wrote an article for the town newsletter briefly explaining the sign ordinance, and Jordan volunteered to write the article. Chair Cox will send him Ben Vail's email information and the deadline submission date for the article.

- Ordinance Review: Chair Cox stated she did not want to lose the fact that the Planning Board did work on the ordinance review and felt it would be very difficult to work through issues again in this format. She heard back from Bill Najpauer. He plans to get a draft of the changes they worked on by July 23 and the Board could then figure what to do and how to do it. Chair Cox asked if it would be better to break the information down so each member could review a piece. Hewlett thought to work on this in the summer months, was hard. Jordan stated he would have more time soon as his term at the library is about to end.

Jordan raised a question arising from Anne's note which suggested maybe the Planning Board ought to consider taking a review of the existing ordinances and clean out some of the issues that they are concerned about or dealt with. He felt they needed to decide soon which way they want to go. Jordan said he would love to see an all codified into one nice, neat package, so everything is in one place and it would easier for the public to deal with as well as the Planning Board. The question that occurred to Jordan was, "What is the easiest to get done?" He said it would be a

shame to spend all the time on a big codification, (unintelligible) to have it received technically and have people vote it down just because they are not sure they understand it, as opposed to something that does nibble around the edges and you can explain particular things you are doing and maybe it stands a better chance of actually getting voted up by the voters. Chair Cox agreed and said there is so much changing right now, it may be the less we change things now, the more comfortable people would be.

There was no further business to come before the Board. The meeting adjourned at 8:55 p.m.

Respectfully submitted,

Marguerite R. Wilson  
Planning Board Recording Secretary