

**St. George Planning Board
St. George Town Office
January 12, 2021 - 7 p.m.**

The Planning Board meeting was called to order at 7:12 p.m. via Zoom. Members present were: Chair Anne Cox, Jane Brown, Mary K. Hewlett, Alan Letourneau, Michael Jordan, Ray Emerson, Anne Cogger. Also present: CEO Terry Brackett, Richard Bates, Ryan Cline, Russell Wolfertz, Joseph R. LaBranche, Jon Lewis, David Taylor, David Emery, Irene Rizkalla, Ben Norton, Carolyn Connors, Steve Taylor, Nadina Knisch, Mark Bartholomew, Liz Matthews, Loreen Meyer, James Dorsky, Chip Bauer, Sara Allenwood, and Matt Tibbetts.

Quorum: A quorum was present.

Conflict of Interest: None.

Adjustments to Agenda: None.

Review of the Minutes:

Planning Board Meeting – December 22, 2020 - The minutes were corrected as follows:

Page 4, 10th paragraph, line 2, change to read: ... going to be more...

Page 6, paragraph 1 under Other Business, line 2, delete the word added and change to: granted

A motion was made by Letourneau, seconded by Brown, to approve the minutes of December 22, 2020, as amended. The vote was 5-0. The motion carried.

Public Comments:

Rizkalla asked to speak regarding St. George Sea Farms: I would love to go back to the Wildcat Lobster Pound for something that I have been thinking about for a long time. The lobster pound for 40 years or more has always looked shabby next to one of the most beautiful views in the state of Maine. I sold real estate for 35 years and most of the people who came looking for property were going to build something magnificent at the end of a dirt road on the shore or a driveway down to never, neverland. But this man has decided to buy something that is in plain view of all of us that we can watch it become whatever it becomes and enjoy it for the rest of our lives. I'm thrilled with it.

When I saw his plan, I said can this guy be as good as he sounds? So, I went to Boothbay and I saw his gourmet grocery store. I saw a magnificent building, finished beautifully inside and out with granite everywhere including the sidewalks. Next, I went to the rec center down in town and I saw another handsome building with tennis courts that I thought was extraordinary and curbing shaped out of granite to look like ocean waves. If he does anything like that along our major thoroughfare, I am going to be thrilled.

And I hope that there is nothing detrimental that they prove that is going to hurt our fishing industry because this is my town, too. And I love this (town), and I get it. It's their chance to do whatever they want fishing and make money. But I also think the quality of what we have to live

with is important and that lobster pound, I feel, will be a giant asset as far as just what people see going into the village of Tenants Harbor. That is how I feel and would like to put it out there.

There were no other public comments.

Building Permits:

a. Harbor Builders, 13 Cold Storage Road / Map 102, Lot 079

Sara Allenwood of Harbor Builders represented the property owner, Jeremy Wintersteen. The application is to have electricity hooked up to an existing building located directly at the shoreline. The columns under the outbuilding will be shored up and the five support beams on the porch will be replaced. The Shoreland District is Marine Residential, and the Floodplain Designation is AE-11.

Allenwood explained the proposed project. Wintersteen bought the property in October 2020. There is an existing building directly on the shore. The support piers are granite and have shifted. Some of the piers have shifted, will eventually fall, and will cause the water side of the building to collapse. Five of the existing piers supporting the structure will be replaced with larger, new granite piers.

Chair Cox asked if the porch's support beam will be replaced. Allenwood stated it is an old beam that has rotted, and the plan is to replace the rotted beam with a new beam.

Chair Cox asked if the building is being used as a residence. Allenwood stated the house is. The outbuilding is going to store the owner's boats and be a workshop.

Hewlett stated she is familiar with the outbuilding on this property, and that it is interesting because the front of the building is on ground level and the back (of the building) is over the water. Allenwood stated on a very high tide, Wintersteen says the water comes into the building.

Letourneau: Is he going to raise the building?

Allenwood: Not at this time. This application is just specifically for replacing those five supports.

Corrections made to the Application: Outbuilding to be shored up; Marine Residential added under Shoreland Zone.

A motion was made by Jordan, seconded by Hewlett, to accept the application as complete. The vote was 5-0. The motion carried.

Chair Cox noted the application is before the Planning Board because the estimated cost is greater than \$10,000.00 and the project is maintaining what currently is there. Jordan stated there is no increase in the footprint. Hewlett added the current outbuilding has a safety issue and shoring up the building will help with that. CEO Brackett stated he does not have concerns regarding the project.

A motion was made by Hewlett, seconded by Jordan, to approve the application for 13 Cold Storage Road because the five existing supports are being replaced, the replacement of the porch's support beam will create more stability for the building and increase the safety of the structure, the current footprint will remain the same, and this project is within the 75-foot buffer zone setback. The vote was 5-0. The motion carried.

Wharf:

a. Ronald Thow, 6 Hupper Island / Map 201, Lot 006

Matt Tibbetts of Art Tibbetts Marine represented the applicant. The proposed plan is to construct a 5 foot by 96-foot-long residential wood pier, a 3 foot by 40-foot seasonal aluminum ramp, and a 12 foot by 24-foot seasonal float. The Shoreland Zone District is Marine Residential.

This application was placed on hold at the Board's December 22nd meeting, pending an on-site inspection of the site. CEO Brackett, Harbormaster Cline, and Tibbetts were charged with finding transportation to the island and adhering to the COVID restrictions but were not able to. Chair Cox asked if the Board had enough information and photographs to waive the on-site inspection and schedule a public hearing.

Hewlett asked Brackett if this was the application that some of the neighbors had contacted him about. Brackett stated he had two people call and has not heard from them since. He thinks they are waiting for the public hearing notice goes out. He thinks the public hearing will take care of it because there isn't anything in the ordinances that will prevent the Thows from putting this in.

Cogger asked if the neighbors voiced their concerns when he (Brackett) spoke to them. Brackett stated there was a minor concern, but he could not remember what it was.

Chair Cox stated the abutters will be notified about the public hearing, and Brackett stated that technically, the abutters have been notified by DEP. But the town will notify the abutters when the Board determines when the public hearing will be held.

Jordan thought they have little choice but to waive the on-site visit because there is no way to get to the island at this time. Cogger asked if the Board needs more photographs since they will not be having an on-site visit.

Hewlett stated she has concerns about putting 96 feet of pier across all that seaweed and rock. She asked what is the visual effect from the houses that you can see. "Not that we can stop it as Terry said but at least can we talk about that?"

Chair Cox stated they have comprehensive photographs, but could Tibbetts get some photos showing what the neighbors might see. Tibbetts stated he had sent another 15-20 pictures from every angle, north, south, east, west from the shore, from the back, from the water looking in. Brackett stated he scanned through the pictures and took the ones he thought represented every different angle and sent those to the Board. Tibbetts stated if you stand where the pier will be, there are no houses; there is one house around the corner. Brackett thought the Planning Board

had a GIS view that showed the other two piers and the houses in that area. He stated one pier was about 1,500 feet and the other about 1,020 feet from where this pier would be.

Hewlett: "The two piers that appear to be to the south of that property look a lot shorter. What do they look like? Can you see them if you are standing on the shore and you look over to your right?" Tibbetts stated he did not have any pictures with him of those, but he knew the ones around the corner were longer than this one. He stated the closest pier is around the corner to the left and is longer. Brackett stated those are long piers and he had been on those several times.

Hewlett asked if this would be a precedent that the Planning Board no longer go to islands. Jordan stated during a pandemic, anyway. Chair Cox said no. Hewlett asked if the Board is waiving it because of COVID-19. Chair Cox and Jordan stated yes.

A motion was made by Jordan, seconded by Brown, to waive the on-site inspection for 6 Hupper Island because there is no practical way for the Planning Board to get to the island safely during the Covid-19 pandemic. The vote was 5-0. The motion carried.

The Public Hearing for Ronald Thow's application for a pier, ramp, and float has been scheduled for February 9, 2021, at 7 p.m.

Subdivision Amendment:

a. Adric Drive Subdivision/St. George, Map 210, Lot 012-1 and 012-2

James Dorsky of Gartley & Dorsky Engineering & Surveying submitted the subdivision amendment on behalf of the owners, Garrett and Edward Thorbjornson. The subdivision is located at Adric Drive off Wallston Road. The amendment is for two (2) of the shorefront lots that total 4+ acres and contain 450'± Shore Frontage.

James Dorsky represented the Thorbjornsons and explained the application request. The Thorbjornsons want to amend the Adric Drive Subdivision. Edward Thorbjornson was the original developer. There has only been one lot sold out and it was sold to his grandson, Garrett Thorbjornson. Dorsky stated they are changing three things that affect only Lots 2 and 3 of the subdivision:

- One is to remove a 100-foot setback. He stated that he did not know why that clause was put on the subdivision plan and Garrett and Edward were not even aware of it. Dorsky stated on the plan it shows a 100-foot setback from the Resource Protection Zone (RPZ) and that setback requirement is not in any town ordinance. The Thorbjornsons did not understand it and Dorsky stated he did not know why it was there. Somebody else did this subdivision and the Thorbjornsons do not want that to be there. So, the main reason is to eliminate the 100-foot setback from the resource protection zone. Dorsky stated they have taken that off on the amended plan which just focuses on these two lots which are the only affected lots. A new plan does not show that setback and we made a clear statement on the plan that it was one of the purposes for this amendment.
- There was a note on that plan that suggested 70% lot coverage was allowed in the Shoreland Zone. The amendment is making it clear on the plan that in the Shoreland

Zone M.R. is 20% lot coverage. CFMA Zone allows 70% lot coverage but this property is not in that District.

- There was one front setback on Lot 2 which was not graphically depicted correctly, so they corrected that, labeled the setbacks, and also indicated these were just town setbacks, municipal current zoning setbacks subject to change in the future.

Dorsky: "The reason we felt like we needed to do the amendment was that it is possible for a developer (they do have the right) to make restrictions on subdivision plans that are more restrictive than town zoning requirements. So, there could have been a question mainly about that 100-foot setback from the RPZ. The intent of the original developer and everybody's lots based on that recorded plan, was a restriction that would be in place. So, we felt like potentially it could be viewed that way until we did an amendment.

"On the plan, we also added LiDAR-based contours and now have a more accurate representation of where the resource protection zone is which in this particular case is based on steep slopes. So, based on LiDAR data we determined where the 20% slopes were, and we've got a new line depicting that to give to the Thorbjorsons or the CEO when he needs to issue a building permit for Garrett, who plans to build down there, to have an idea where the Resource Protection Zone is. The zone itself is not allowed to be built upon without a special exception and actually for a steep slope, you would not be able to do it anyway, however there is no setback from it, so that was the purpose of this."

Chair Cox asked if 250 feet was the setback for any buildings from the resource protection zone.

Dorsky: There is a 250-foot shoreland zone which is measured from the normal high-water line but that is everywhere adjacent to tidal water and other areas. You cannot build within that shoreland zone but there is normally a 75-foot setback from the normal high-water line. You've got more than 2 acres of contiguous, sustaining slopes steeper than 20%. In that zone you cannot, if you go to your table of uses, you will see the residential structures cannot be built in the resource protection zone without a special exception. Go to special exceptions. You have to meet all these criteria to do it. One of the things is they cannot be in an area where the slopes are greater than 20%. So, in this particular case, 20% slope in RPZ, you would not ever be able to build on it; but there is nothing anywhere that says there is a setback from it. You just cannot build in it."

Jordan stated the 250-foot setback requirement is if the property is in a resource protection district within the shoreland zone and that is not the case here. Dorsky stated right.

Chair Cox asked CEO Brackett what the 100-foot setback was originally. Brackett stated it was before his time and he did not have any idea how that got in there. Brackett said he didn't know if it was inadvertently put in or what and said that Mr. Thorbjornson did not know, either. Brackett stated he did not see any purpose for it.

Letourneau asked if there were neighbors or members of this subdivision who may have objections. Dorsky stated the only people who could potentially, legally have standing or interest to say anything about it would be lot owners in a subdivision. Edward Thorbjornson was

the developer and he still owns every single lot, except Lot 2, which his grandson owns; but they are both applicants requesting this change, so there is no one else who would have an interest in it.

Letourneau asked if the Moskowitz's were part of that subdivision. Dorsky stated no.

Hewlett stated Philip Reinhardt owns the lot facing Wallston Road in the subdivision. Jordan asked if Reinhardt's property was within the subdivision. Dorsky said he looked at the commitment and it showed still being owned by Edward Thorbjornson. Hewlett said she did not know when Phil bought it, but the Board was there a few months ago. Dorsky said he must have just purchased the property.

Chair Cox asked if the Shuman/Russell property was part of the subdivision. Dorsky stated it was not. He said he submitted a copy of the original subdivision plan and that lot was not one of the lots in the subdivision.

Hewlett thought they should request a letter from Reinhardt stating that he is aware the Thorbjornsons are requesting the 100-foot subdivision change. Chair Cox said if the subdivision depends on everybody knowing, they should not act this application.

Dorsky felt that was a reasonable thing to do. "I would say though if push came to shove, I think the argument would be, does that particular restriction have any effect on that lot owner. I think it doesn't. If you had something that had something to do with a right of way, they may all have an interest, or if you were changing the number of lots or something more significant. But whether there is a house on Lot 1 or 2, 80 feet from the shore vs 150 feet, I don't see how legitimate that would be to say that's affirmed. I just throw that out there. I don't think it would hurt to ask them for their opinion. I wouldn't want to make it determinative what their opinion is."

Hewlett had a question about the V-1 drawing that was dated 12/16/2020. Hewlett, "Year one on that drawing. You want to eliminate the limit of the shoreland zone, the 250? You want to remove the dash line?"

Dorsky, "Right above the Planning Board signature block in the lower right-hand corner, there is a bold box that explains what this is about. It says, 'this plan amends Plan Reference #1.' The purpose of this amendment is to remove the 100-foot setback from the RPZ on Lots 1 and 2. If you went back in the original plan you would see that there is a setback line on it, labeled 100-foot setback from RPZ. That is what we are eliminating, and it is not shown on this plan because we are eliminating it. So, we are not eliminating the limit of the Shoreland Zone. That is still a real thing that exists. We are eliminating the 100-foot setback from the Resource Protection Zone. The RPZ shown on our plans is that red squiggly line running parallel with the shore just above the steep contours and you will see that we don't show any setback from that. The original showed a 100-foot setback from that."

Hewlett asked why it is only a 10-foot setback on the sideline? Dorsky stated that in the St. George Shoreland Zoning Ordinance, the town has 20-foot side setbacks but outside the

Shoreland Zone it goes to the minimum lot size ordinance which only has 10-foot side setbacks. Outside the shoreland zone, side setbacks are 10 feet; inside, they are 20 feet.

Hewlett pointed out that the contour line is a cliff, and it is within the 75-foot setback. She stated there was no way anyone would build in it. Hewlett recommended Dorsky provide a letter to the Planning Board stating he could act as the Thorbjorsons' representative.

Chair Cox noted the following two items are items needed. A letter from the Thorbjorsons stating James Dorsky can represent them and the Planning Board needs some form of communication verifying that Philip Reinhardt has been contacted about this issue. The application will be on hold until these items have been received.

Jordan, "It seems to me that the question of whether he (Reinhardt) has a right to object to this or just a right to be informed about it or whatever rights he has, probably has to do with what the subdivision legal documents say."

Hewlett, "The by-laws and covenants."

Jordan, "And that is not for us to adjudicate but that is what I think the developer and the lot owners have to take into account. So, I guess what I would suggest is that we give them some kind of an opportunity to be informed, and if he wants to object, he can. I do not know if we are the authority that gets to deal with that objection, but I think we should defer deciding this until we know that he has been at least notified."

CEO Brackett, "Michael, anytime we do a modification to a subdivision, we usually request that all the subdivision owners in the subdivision sign off on that change."

Dorsky, "I don't believe there was any declaration of covenants or restrictions with this subdivision. Three covenants are in the deeds, but I don't think they had separation of covenants and restrictions. So, I do not think there is anything documented like that would deal with in the covenants that would say that these other lot owners need to be notified of the amendment to this plan or anything like that. I feel like this amendment and what is being done doesn't have any effect on the abutters. I think if you were going to ask for their opinion, you could notify them and ask if they have any objections or any comments about it that the Board would take into consideration." Hewlett and Jordan felt that was reasonable.

Chair Cox stated that the Board will place this application on hold until Philip Reinhardt has been notified and get Dorsky provides the verification from the Thorbjornsons. CEO Brackett stated that he will notify Philip Reinhardt about this issue.

Site Plan Review:

a. St. George Sea Farms LLC, 127 River Road / Map 219, Lot 65 and 85

This application is to repair the pound containment for marine aquaculture, specifically oysters. Remove the existing structures, replace these with a single wood-frame structure, and to replace the existing overboard discharge septic system with a new subsurface septic system. The

Planning Board has had a pre-application meeting with the applicants, a meeting in which the application was presented, and on January 9, 2021, an on-site visitation inspection was held.

Russell Wolfertz, Joseph R. LaBranche, and Jon Lewis were present.

Planning Board member Alan Letourneau asked if the applicant has sufficient right, title, or interest in the property at this time. CEO Brackett stated he has a lease-purchase agreement; it is pending his approval of this application. Jordan stated that there is a copy of parts of the agreement in the Planning Board packet.

Chair Cox asked the Planning Board members if the St. George Sea Farms application before them, is complete?

Jordan: "I agree with Irene. This is a very exciting project, and I am in favor of it in concept, and I think it will be a good addition to the town. There are a number of issues in the application that I think we need to clear up just for the purpose of making sure that there are not any inconsistencies in case there are objections later, and we have a clear statement in the record that supports what I believe will ultimately be a favorable decision. What I would like you to do is take careful notes about what I and other members of the Board say because I think what I would like to see happen is a re-filed application that addresses the points that I am about to raise, and other Board members are going to raise so we have a straightforward, consistent, complete application.

"On the application under Project Description that block has everything in that we have heard and there are bits of what we've heard elsewhere in the application. I think what we should do is to have all the issues both what is handwritten in that block and the other issues that need to be addressed in a separate paper, all in one place so future readers of the application and the record will know what is there.

"Issues missing: The reconstruction of the dam. Removal of the fencing. Placement of the granite, the exterior parts of the base. Tree removal. The application states on page 5, there will be no tree removal or vegetation removal proposed, but I heard at the on-site that some trees would be taken down. Could the applicant explain if trees will be removed?"

LaBranche: "To my knowledge, there is no tree removal. I would not go as far as to say that is absolute, but I have not considered any tree removal other than it being mentioned inadvertently during the meeting. That was the first I had heard anything about tree removal. I don't believe there is. I haven't considered it and that is why the written statement should reflect it."

Hewlett: "Are you increasing the height of the dam and you are increasing the lobster pound by three feet? That should be in the description, too. And you are planning on lining the entire lobster pound with additional granite? Three feet is a noticeable increase of height and additional granite to absorb the sun. That should be added to the description of what is being proposed."

Chair Cox: "From the letter I read, there was a question about lighting and noise. So, address very specifically what the hours of operation are and where there would be lighting, down shielded."

Jordan: "The location of where the lights will be, such as on the front side, wherever the lighting will be. The other aspect would be signage."

LaBranche: "No, signage is planned at this time."

Jordan: "Okay, then the application should indicate that as well. We do have a separate sign ordinance so if you were to change your mind after the fact and wanted to put a sign in, we would need a separate application for that."

Hewlett: "If you think you might want a sign, you might want to include it in this application. The only thing in regards to the description, we cannot have approximate square footages. We need to know to the square foot how this project is going to be. I know we need to talk about it, but the square footage, are we including the exterior ramps, the exterior stairways?"

LaBranche: "Yes, that is specified in those square footages."

Chair Cox: "In your plan, it says 42% coverage for the building, parking lot, and ramps. (LaBranche, yes.) That is based on 2.4 acres. There is a discrepancy in various places as to what the acreage is of the land. I have seen 2.4, also 2.6, at one point. So just to cull through and get one size, this is what it is."

Jordan: "I think we all agree that the area of Lot 85 is 5.1 acres. That is what the tax map says. The deed says it is 5.1 acres, but we only count the land, not the water so anything that is out further than the high-water doesn't count. There we have two different numbers. The deed says the land area is 2.4 acres. The site plan reflects that it is approximately 2.6 acres. The property information needs to be updated with either 2.4 or 2.6 acres. On lot size, the site plan and a separate statement that a surveyor gives square footage of (page 2 of the LaBranche survey) 108,000."

LaBranche: "You mentioned not including the acreage below high water. I think your ordinance also requires that acreage beneath a roadway servicing more than two dwellings needs to be removed as well. A typical area for this lot is the 2.4. Your ordinance has a lot area and it cannot include land below high water line or below roads."

LaBranche: "I have taken out the road which brings it down to 108,000 sq. ft."

Jordan: "That is what would be used to have the square footage listed under the property information on the first page of the application. To give the square footage for the lot."

"To get to the coverage, we need to have the listing of the things that constitute coverage for purposes of making that calculation. There is a glitch on the form. The total square footage of

the buildings. Buildings are not the only thing that counts. There is a discrepancy. The application says there are 4980 sq. ft. but the site plan says 4536 sq. ft.”

LaBranche: “I believe there was a plan at the time to increase or request an increase in the size of the building that made its way on the second iteration of the application. We backed off of that and requested something that amounts to a 28% increase which is the square footage shown on the site plan.”

Jordan: “So the application should reflect 4536 sq. ft. that is shown on the site plan. (LaBranche stated yes.) That is not what goes there. Well, it is what goes there for buildings although the site plan also says 7097 sq. ft. That takes care of the roof overhang and the stairs. (LaBranche stated yes.)

“The other things that need to be added in order to total the percentage of things other than buildings. From what I can tell from the site plan those would include the parking area if it is graveled or paved, the driveway, graveled or paved, there is a portion of the decking of the wharf to the water that is on the land, that is lot coverage.”

Chair Cox: “He also in his notes on the plan says approximately 42% of the lot will be covered by non-vegetated surfaces including the proposed building overhang, ramps, road, gravel drive, and grout pile, etc.”

Jordan: “The etcetera part of that when you get to 42% is the other items mentioned there, is the granite pile. Does that count? Hewlett: Isn’t that a separate lot? You are really buying three lots.”

LaBranche: “Two lots and we are using both lots. It turns out, this particular aspect, the grout pile is covering one of the lots in its entirety, more or less. That is lot 65. In talking with DEP in certain situations, in terms of non-vegetated surfaces, they are non-vegetated surfaces. I have discounted all of it.”

Jordan: “I guess you don’t have to do this, but you haven’t added the area of Lot 65 to the total area.”

LaBranche: “Yes, I have. I think I can clear this up. The five-acre number includes the pound, so I am starting from a place that does not and I never have and probably never will, count in areas of an intertidal area or anything below the high water. That is perhaps how the acreage of the Wildcat lot plus Lot 65 is the number that it is.”

Jordan: “That is why it is 2.6 instead of 2.4.”

LaBranche: “I guess what I was trying to say, it is incongruity with the acreage in Lot 65 might not be counted and I think that may explain it. Because I am using the acreage of Lot 65, both lots.”

Jordan: "When you describe the total lot size it should reflect both land area of 86 and 85 and the area of 65."

Hewlett: "Are we allowed to do that?"

Jordan: "There is something in the section, if the properties are in the same name, you can combine them for tax purposes. They have to have been in the same name in 1993."

Chair Cox: "You are getting a lot of questions and there needs to be consistency and clarity with the application. Lot Coverage should be updated and consistent with other information. That is where the 42% should go." Chair Cox noted there was clarity in the written report but asked if he could pull all the information together and document it on the first page of the application.

Jordan: "At the back of the most recently filed application there is a copy of the site plan but it was the one that was done in December 2020, so it is out of date. I would suggest that the large format copy is the only one that we need to have in the record, so you could take that out altogether. To add to that, there are various places within the application where reduced portions of parts of the site show up. You could get rid of those, too; but you still have text on them describing the project and that is going to be in the revised description. So that will streamline it and make it easier to follow."

Jordan: "Who signed the application? I couldn't read it."

Chair Cox and LaBrache stated Russell Wolfertz.

Jordan: "We need something from the actual applicant authorizing him to do that."

Hewlett: My question is to the Board is how are we dealing with the residential aspect in a CFMA Zone?

Jordan: "I will give you my view on it. If you look in the Shoreland Zoning Ordinance at the table in Section 14, in the CFMA zone, you cannot have residential use. But what it says if you follow down, line 15a, line 15 says principal structures and uses. So, you cannot have a single-family principal structure in a CFMA district. But I don't think that prohibits us from approving incidental or accessory use for a caretaker and security residence. Because residential is clearly not the principal use of what is being proposed."

Hewlett: "I want to make sure principal is not anywhere in the application, but I see this as a caretaker/security function to have the residence."

Jordan: "It has been explained to us and I think it is suggested in the application, but it would be good to have it in the notes." LaBranche stated okay.

Chair Cox asked if they have submitted an application to DEP for this project.

LaBranche: Not yet. I don't think any applications have been submitted at this time. As you probably know they are quite onerous, complicated, and complex and take a long time to put together. I suspect DMR and the Army Corps of Engineers would be very interested in the dam and the proposed work. We have made contact with Peter Tischbein from the Army Corps of Engineers, he's looked at the second iteration of the plan, and he did not have much to say about it. He certainly didn't seem to have any problems with it. We have contacted Hannah Brazier from Maine DEP. She came down and we had a pre-application meeting last month. She did not spend a whole lot of time with it, didn't ask many questions, and it seemed like a pretty straightforward project from their perspective. The DMR is involved with the shellfish aquaculture aspect of it but I am out of the loop on that and would have to defer to Jon Lewis.

Lewis: "We will be submitting individual permits to DEP and a joint application with the US Army Corps of Engineers that will include the dam reconstruction. Just to clarify one point. While the level of the dam is being raised 3 feet, that means there will be 3 feet of additional water withheld in the pound at low tide. At high tide, it will be unchanged because it will be topping the dam. They consider that to some extent, maintenance as long as it is in the same footprint as where the existing dam is. They do not have a problem with that. The component that was going to put us into the individual application phase with DEP is the rocks on the north end that would be used both as roadway stabilization and as a heat sump. I heard someone mention earlier about lining the entire pound with granite. That is not the intent. The intent is to just line the north end which will receive that southern exposure for the heat."

Chair Cox requested an outline of the area where the granite is intended to go in the pound. Lewis said he could provide that.

Lewis: "The reason I have not yet submitted an application, is I did not want to submit it to the state and federal agencies and then sit down at this meeting tonight and the site visit on Saturday and realize there were problems and concerns that needed to be addressed. Just to be sure that we are on the same page, I held back until we moved forward a little bit."

Hewlett: "I am thinking that the granite is going to be riprap? Are we triggering a riprap application?"

Lewis: "Most likely. This is somewhat in flux. The intent is to put it just below the high tide line so that when the tide comes in and washes over that warm rock, it allows for some heat. It is not necessarily the primary reason is not bank stabilization like riprap is traditionally used for, but it is generally a heat sump."

Hewlett asked if it is riprap or is it not? Chair Cox stated it will not be seen at high tide. Lewis said if he had a definition of riprap, he could tell if it met that definition.

Chair Cox: "We just want to have a picture of what is going to happen. So, you are giving us a verbal picture. We need it written down and once you get working with other agencies, they are going to want clarity on that, and then we will get to see what it is."

Lewis: "For the sake of your clarity, I am estimating we're looking at the northern end and perhaps another 15 or 20 feet on a circular basis down either side but it wouldn't extend all the way down the east and west sides. It is primarily just the north side."

Hewlett noted it could be riprap. LaBranche stated he thought it could be riprap; essentially riprap that lays below the high-water line. Letourneau added, "Stabilizing but not its primary purpose."

Chair Cox stated its primary purpose is to be a heat sump and Hewlett added to stabilize Haskell Point Road, which he has stated before. Chair Cox stated that on their revised application they are going to make it clear.

Letourneau asked to have some of the Georges River Shellfish Committee's concerns addressed on how this would affect clams. "Where are the oyster seeds coming from?"

Lewis: The seeds will be coming from one of two commercial hatcheries, Muscongus Bay Aquaculture in Bremen or Luke's Sea Farms in Walpole. They both have been producing oyster seed for many, many years and are inspected by the state. The gentleman's concern about triploid oysters: those are oysters that are grown, and they are sterile and unable to reproduce. I worked for DMR for 23 years and this question came up frequently about the feeding of oysters and clams and competition.

Lewis: The gentleman is right. Oysters will take up clam larvae so right in the clams we'll put up a million seeds per individual in the water column, so it is a numbers game. For about four days, the clam larvae are available and are the right size for oysters to feed on. After about four days, the clam larvae are too large for the oyster to ingest and they go on their way and suffer the natural mortality from other consequences. It is about four days; it is primarily a numbers game. He also mentioned using 50 gallons. That is a large adult oyster, 3 to 4 inches in water temperatures that are nearly 80 degrees. We do not see that kind of feeding capacity or filtration in American oysters in Maine because the water temperature is so much colder.

Chair Cox asked if the applicant could come back with a new, revamped, and consistent application in two weeks. LaBranche said he could.

There was no further business to come before the Board. On a motion by Brown, seconded by Letourneau, it was voted 5-0 to adjourn the meeting at 8:30 p.m.

Respectfully submitted,

Marguerite R. Wilson
Planning Board Recording Secretary