

**St. George Planning Board
St. George Town Office
January 25, 2022 - 7 p.m.**

The Planning Board meeting was called to order at 7:04 p.m. Present via Zoom were: Anne Cox, Chair; Jane Brown, Anne Cogger, Mary K. Hewlett, Michael Jordan, Van Thompson, and Richard Moskowitz. Also present by Zoom were: CEO Terry Brackett, Richard Bates, Loreen Meyer, Devin Prock, and Bruce Hammatt.

Quorum: Anne Cox and Jane Brown stepped down as voting members for the Metviner application because they were not present at the onsite; and Van Thompson and Richard Moskowitz were elevated to voting status. A quorum was present.

Conflict of Interest: None.

Adjustments to Agenda - The following adjustments were made:

- The on-site inspection minutes of 1-15-2022 were added to the agenda.
- The ordinance workshop was removed from the agenda.

Review of the Minutes:

Planning Board Meeting — January 11, 2022, Planning Board Minutes

A motion was made by Anne Cogger, seconded by Brown, to approve the minutes of January 11, 2022, as written. The roll call vote was 5-0. The motion carried.

Public Comments:

Hammatt: I would like to suggest that the location that was pointed out to us by Mr. Prock where the dock was going to go, is where parts of the old pier have shown up on the shore. That old pier went out from a place up towards the house where there was a walkway. There are two different locations of piers, and it would be good to have a good demarcation of where that is and what direction it is going to go. The photograph that I saw today that had the pier placed on it went out perpendicular to the shoreline. My impression when we were there was it going to go out more of an angle to the west or more directly north. I think having a certain location you could get that, and normally I would have expected the plot plan of the land (with the pier placed on it) in a more defined way.

Wharf:

a. Alexander Metiver, 398 Wallston Road / Map 221, Lot 10

Devin Prock of Permitting with Prock, LLC represented the applicant. The application is to install a 5' x 25.5' fixed pier with a 3' x 50' seasonal aluminum gangway (ramp) and a 12' x 24' seasonal float. There is an old wooden pier and wooden walkway on the site which the applicant asked Prock to remove. Shoreland Zone District: Marine Residential. Floodplain Designation: VE-13.

The Board reviewed the application with Prock, Prock explained that the owner abandoned the idea of rehabilitating the original walkway pier that was located further out in the cove due to potential permit issues and the pier would have to be three times as long to get out into floating water. So, he decided against that site and requested Prock clean it up.

Chair Cox: Why was a 12' x 24' float necessary?

Prock: Metviner bought a bigger boat and wanted something bigger to tie his boat on to. He said he is going to buy a 30' boat at some point. His wife and children use kayaks so the plan is to put the kayaks on the float so they can get in and out of the water easier and they will lash them down when they are not using them. Metviner understands he will have to leave the boat on the mooring most of the time because of the way the wind blows into the cove.

Hewlett: Where is that float going to be stored in winter?

Prock: In the cove, on the bank, there was an old float that my brother and I cleaned up for him this past spring, and he was going to pull it up there on the bank in the fall and then pull it back into the water in the spring. It would be out of the resource area up in the cove. It is adjacent to the shed area located down by the water.

Hewlett: How is the applicant going to pull the float up onshore? It is huge.

Prock: You can use a chainsaw winch to pull it up and pull it out.

Chair Cox explained to Prock that the Board had requested a site plan that showed the exact location of the pier project in relationship to the property lines, etc., but the only thing he submitted was the aerial photograph with the pier drawn on it.

Prock: If you measure (on the tax map) from the property line all the way around on the property line, I have it written on the tax map what that distance should be (or the starting point of the pier).

Chair Cox: My question is about the riparian rights and the littoral rights and where the littoral line goes from the properties. I know there are different ways of calculating this.

Prock: Riparian rights typically go to low water. The only time it goes further is if you have a lot of muddy beaches (to 1,650 feet). Other than that, you've got to low water and after that, you are out into State territory.

Hewlett: And this is an example of a cove that is very muddy. That is why they are having to locate this pier so far out from the house. I think if you draw the lines or take a ruler, you are going to go right into the pier structure. (Cox: Right.)

Prock: My thought is you can't go past low water across the body of water and then assume rights on the other side. There are all kinds of "funky" ways to calculate riparian or littoral rights.

Hewlett: I think our worry is that we have to protect all the property owners that are surrounding this property. So, where would you locate the pier structure for that other property if it were to subdivide?

Brackett: We cannot be concerned that it would subdivide. You have to go with what is there today. I did talk with DEP, and they did take into consideration riparian rights as part of their review process.

Prock stated that it did not apply to this application because the neighbor was not intending to split that property up. Hewlett asked if he knew for a fact that the neighbor was not going to subdivide. Prock stated that if Hammatt subdivided down the road that would have nothing to do with this application. Hewlett felt Prock had not given the Board anything to prove the answer was no. Hewlett, "We keep asking for something, but we don't get it."

Prock stated that the Board got the answer on riparian rights from the Maine Dept. of Environment Protection (DEP) who said it "passed the muster" on riparian rights, and the CEO talked with the DEP.

Brackett explained that the DEP approved the project and looking at riparian rights was part of the DEP's approval process. Hewlett asked what page of the DEP application or where on the DEP letter did it discuss riparian rights. Brackett explained that DEP does not document riparian rights in their findings but did consider riparian rights ~~are considered as~~ part of their application process.

Chair Cox: If we don't see it but we are told that they do consider this as part of what they look at, it is just not on the reports that we have received. Correct?

Brackett: That would be correct.

The dimensions of the structure were discussed.

Cogger: Is there a limit to what size a floating dock can be? What if you wanted to make it 25' x 20'? Or 30' x 25'?

Jordan: The ordinance says nothing can be longer than necessary to achieve the objective.

Chair Cox added that it is consistent with the surrounding areas, that DEP and the Army Corps of Engineers state that this structure is adequate, that this pier will always be in 3 to 4 feet of water at the lowest tide, and that the size float is necessary for the size boat and kayaks. She noted that there are other piers in the area.

Hammatt stated when he bought the house 16 years ago, there were a couple of sections of the (old) pier still standing; the old pier was passable but angled, and much closer in.

About the length of the dock, Thompson noted that the ledge was shielding part of the structure from view and could be seen on the aerial drawing and seen onshore, so although the pier appeared quite long, part of it was blocked from view. Thompson explained that at the site to the right, there was a rock outcropping that might have been 8' to 10' high off the water. He stated that if you were well to the right looking out to the west, you would see something. He added, "It is 291' out to the dock, itself. I would say that is a reasonable distance."

The removal of vegetation was discussed.

Jordan asked about the removal of vegetation and recalled that the Board asked and was told that none of the trees or vegetation around there was going to be removed. He stated that from the site visit, it did not look like there would be any reason to remove it.

Jordan stated that the ordinance required that construction equipment for the project be accessed by barge when feasible, and he thought the Board was told that the plan was to bring the equipment in by land.

Prock: It is all going to be hand-built. Everything is going to be lugged in by hand. There will not be any large equipment.

Jordan: You are pouring concrete?

Prock: Yes. We will mix it at the site in a small hand mixer and we will form up the small abutment onshore.

Hewlett: It says that the gangway and the float are coming by water.

Prock: Right.

Hewlett: Are you going to hand carry all the lumber for the pier into that site?

Prock: We can hand carry it or we can bring it on top of the float and then assemble it on-site.

Hewlett: We are just concerned that going back and forth will disturb the vegetation.

Prock: My brother and I were planning to float the materials for the dock out on the float and putting it onshore during high tide. That way, it will limit movement on the vegetation.

Jordan: That sounds okay.

Hewlett: You have erosion control methods outlined in C-5.

Planning Board members stated they had not received Prock's drawing with the pier to scale on the tax map that was needed to complete the application. Prock emailed the C-1 scaled drawing to Chair Cox who forwarded it to all the Board members.

Chair Cox asked if the Planning Board now had a complete application. Hewlett stated that with the inclusion of the C-1 drawing, she felt they had.

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

The Board then reviewed the standards under Section 15(C) of the Shoreland Zoning Ordinance.

Section 15(C)

Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-Water Line of a Water Body or Within a Wetland and Shoreline Stabilization.

1. No more than one pier, dock, wharf, or similar structure extending or located below the normal high-water line of the water body or within a wetland is allowed on a single lot. - On a motion by Hewlett, seconded by Jordan, the Planning Board determined by a roll call vote of 5-0 that the standard has been met because the existing, dilapidated pier will be removed, and the proposed pier will be the only pier structure on this property.
2. Access from shore shall be developed on soils appropriate for such use and constructed to control erosion. - On a motion by Jordan, seconded by Thompson, the Planning Board

determined by a roll call vote of 5-0 that the standard has been met based on the observation of the site that the soils are appropriate for this project.

3. The location shall not interfere with existing developed or natural beach areas. - On a motion by Jordan, seconded by Thompson, the Planning Board determined by a roll call vote of 5-0 that the standard has been met because there are no beach areas at this location.
4. The facility shall be located so as to minimize adverse effects on fisheries. - On a motion by Jordan, seconded by Thompson, the Planning Board determined by a roll call vote of 5-0 that the standard has been met based on the findings by the Maine DEP and the Department of Marine Resources that the pier is located to have minimal effect on fisheries.
5. The facility shall be no longer in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A pier, dock, or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses. - On a motion by Thompson, seconded by Jordan, the Planning Board determined by a roll call vote of 4 in favor, and 1 opposed (4-1), that the standard has been met because the design of the proposed pier, ramp, and float is an appropriate length for the area as it is no longer than necessary to carry on the activity and be consistent with the surrounding character and uses of the area.
6. No new structure shall be built on, over, or abutting a pier, wharf, dock, or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity. - On a motion by Jordan, seconded by Thompson, the Planning Board determined by a roll call vote of 5-0 that the standard has been met because no such structure is proposed.
7. New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act. - On a motion by Jordan, seconded by Thompson, the Planning Board determined by a roll call vote of 5-0 that the standard does not apply because the project will be located in tidal waters.
8. No existing structures built on, over, or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district. - On a motion by Jordan, seconded by Thompson, the Planning Board determined by a roll call vote of 5-0 that the standard is not applicable because no such structures exist.
9. Except in the Commercial Fisheries/Marine Activities District, structures built on, over, or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure. - On a motion by Jordan, seconded by Thompson, the Planning Board determined by a roll call vote of 5-0 that the standard is not applicable because no structure on the pier is proposed.
10. Vegetation may be removed in excess of the standards in Section 15(P) of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge

when feasible as determined by the Planning Board. - On a motion by Jordan, seconded by Thompson, the Planning Board determined by a roll call vote of 5-0 that the standard has been met based on Prock's representation that no vegetation will be removed, some materials may be hand-carried to the site, and materials for the dock will be transported by float and put onshore during high tide to limit movement over the vegetation.

SECTION 16 (D)

PROCEDURE FOR ADMINISTRATIVE PERMITS

After the submission of a complete application to the Planning Board, Code Enforcement Officer, or Local Plumbing Inspector, the application shall be approved, or approved with conditions, if a positive finding is made based on the information presented that the proposed use:

1. Will maintain safe and healthful conditions. - On a motion by Cogger, seconded by Jordan, the Planning Board determined by a roll call vote of 5-0 that the standard has been met because the project is not creating a dangerous situation on the shoreline.
2. Will not result in water pollution, erosion, or sedimentation to surface waters. - On a motion by Jordan, seconded by Thompson, the Planning Board determined by a roll call vote of 5-0 that the standard has been met because the pier structure will not generate pollution, and based on observation at the on-site inspection visit, there is no potential for erosion from the shore into the water.
3. Will adequately provide for the disposal of all wastewater. - On a motion by Jordan, seconded by Thompson, the Planning Board determined by a roll call vote of 5-0 that the standard has been met as this project will not generate any wastewater.
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird, or other wildlife habitat. - On a motion by Thompson, seconded by Jordan, the Planning Board determined by a roll call vote of 5-0 that the standard has been met based on the findings of the Department of Environmental Protection and the Maine Department of Marine Resources.
5. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters. - On a motion by Jordan, seconded by Thompson, the Planning Board determined by a roll call vote of 4 in favor, 1 opposed (4-1) that the standard has been met because the project will not affect shore cover, and will not affect the appearance (visual), or access to the water or access to the pier structure.
6. Will protect archaeological and historic resources as designated in the comprehensive plan. - On a motion by Jordan, seconded by Thompson, the Planning Board determined by a roll call vote of 5-0 that the standard has been met because no such resources in the vicinity have been designated in the comprehensive plan.
7. Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities District. - On a motion by Jordan, seconded by Thompson, the Planning Board determined by a roll call vote of 5-0 that the standard is not applicable because this project is not in a CFMA District.

8. Will avoid problems associated with flood plain development and use. - On a motion by Thompson, seconded by Jordan, the Planning Board determined by a roll call vote of 5-0 that the standard has been met because the pier, ramp, and float does not interfere with the flood plain development and use.

9. Is in conformance with the provisions of Section 15, Land Use Standards. The Planning Board found the standards under Section 15(C), 1-10, were met.

On a motion by Thompson, seconded by Moskowitz, the Planning Board determined by a roll call vote of 5-0, to approve the Metviner wharf application contingent upon written approval by the Maine Department of Environmental Protection (DEP) and a copy of the DEP approval is provided to the Town of St. George.

Other Business: There will be an ordinance workshop on February 8, 2022, following the adjournment of the Planning Board meeting.

There was no further business to come before the Board. On a motion by Jordan, seconded by Thompson, it was voted 5-0 by roll call to adjourn the meeting at 8:11 p.m.

Respectfully submitted,

Marguerite R. Wilson
Planning Board Recording Secretary