

**St. George Planning Board
St. George Town Office
January 22, 2019 - 7 p.m.**

The Planning Board meeting was called to order at 7:00 p.m. Members present were: Anne Cox, Chair; Jane Brown, Brendan Chase, Ray Emerson, Mary K. Hewlett, Michael Jordan and Alan Letourneau. Also present: CEO Terry Brackett, Richard Bates, Ken Oelberger, William Gartley, Robert Barker, Kathleen Barker, Tom Gorrill, and Bob Gashlin.

Quorum: A quorum was present.

Conflict of Interest: Anne Cox is the contractor for the Nancy and Morris Minton application.

Adjustments to Agenda: Wharfs: Periwinkle Shore, LLC was moved out of order and will be taken up directly following the Building Permits.

Review of the Minutes:

Planning Board Meeting — A motion was made by Jordan, seconded by Hewlett, to approve the minutes of January 8, 2019, as written. The vote was 5-0. The motion carried.

Public Comments: None.

Anne Cox stepped down as the Chair due to the fact she has a conflict of interest with the Minton application. Cox has been hired as contractor to do their landscaping. Jane Brown assumed the position of Acting Chair.

Building Permits:

a. Nancy & Morris Minton - 37 Southern Ave. / Map 230, Lot 062

Anne Cox of Hedgerow represented the applicant. This application is to provide for the landscaping of a newly constructed house located at 37 Southern Avenue. Shoreland Zone: Marine Residential. Floodplain Designation: VE19. The Planning Board held an on-site inspection for the Minton's dock application on June 25, 2018 and is familiar with the property.

Ms. Cox said this project includes a 12' x 28' fieldstone patio, a 4' x 12' fieldstone patio, 4' wide stone steps and path to the water. There will be stepping stones set around the perimeter of the house. There will be a 6' x 40' fieldstone entrance path with approximately a 30' stone wall, 30" high. There will be placement of accent boulders. The rugosa rose hedge will be removed and will be replaced with native plantings; plantings along the drive and at the house.

Ms. Cox had a landscape plan which outlined the location of the old house which has been torn down and a new house built. She said the old house was located closer to the 75' setback line than the new house.

Ms. Cox proposes to place the Minton's patios entirely out of the 75' setback. Cox indicated the location of the 75' setback line with flags and a white line. She said the house which sits very close to the 75' setback has a rugosa hedge between the house and water. The plan is to remove

that hedge and return the area to native type plantings, so the slope area will begin to match the area that is undisturbed. Cox says she does not want to build a retaining wall but the plan is to use boulders to begin to make the area look the same aesthetically and visually, undisturbed. The boulders will be no more than 18" in height above the ground.

The plan is to have 4' wide steps that will allow the applicants to access a path to the shore. Large rocks will be used to retain the edges so the soil does not meld into the path. Cox said eventually all of the vegetation will fill in and stabilize the banking. She and CEO Brackett discussed the application and they both felt the application needed to come before the Planning Board because of the retaining wall being partially located in the buffer zone.

Chase asked if she will have to dig down in order to place the boulders. Cox said yes, and when doing the work, they will have to use some type of erosion control material rather than put in a silk fence, because she does not want to cut into the soil that is stable. A small excavator will be used to dig out the rugosas. Erosion control mulch will be used to prevent erosion from taking place during construction. Native plants will be used and the tallest plants will be the bayberry which will be planted on the lower end of the slope. The applicants have expressed a desire to return the landscape to what was originally there.

Jordan asked about the large rocks being used to shore up the path to the water. Cox said the rocks would be stepping stones or for cost savings may do a pea stone path. She said it would not be a wall but hopefully will be very organic looking.

Hewlett asked what allows this project if the 75' is a non-disturbance zone. Brackett said they can get a Permit by Rule which Cox has applied for through DEP. DEP allows steps and narrow paths meandering to the water. Brackett said he has not received a copy of the Permit by Rule, yet.

The Planning Board referred to Section 15(5) (b), page 20 in the Shoreland Zoning Ordinance regarding retaining walls. Cox said she is trying to do minimal disturbance and remove the rugosas and replant with native plantings. She said the larger rocks will be retaining some material, particularly around the steps. She states she is not building a wall. Brackett noted the fieldstone patio does retain soil and is treated as a structure. Cox said the stones will be sunk into the ground subsurface and the patio will have a nice crushed stone base.

Jordan asked if larger rocks are needed for erosion control. Cox said where she plans to use them is where the slope is steeper. Jordan noted the Shoreland Ordinance section 15 (B)(5) states that all of the detailed requirements apply only for retaining walls that are not necessary for erosion control. If these are necessary for erosion control, the Planning Board does not have much to think about. Hewlett said, then it is okay.

Jordan asked if putting the flagstones within the 75' setback is allowed or not allowed. Cox said she was not sure and asked if that would work – to have stepping stones to delineate a path around that would cut into the 75' setback. Brackett said you can put some stones there as it will help with erosion. Hewlett said you already have a pea gravel drip edge so you know you are

going to be getting water. Hewlett noted water comes off the roof and down where the patio is, but it will be canted a little and will have enough crushed stone under it.

Hewlett asked if there will be a French drain underneath the patio. Cox did not see a need to have one as there is a perimeter drain around the house which helps take care of water. There was no further discussion.

On a motion by Jordan, seconded by Hewlett, it was voted 4-0 to accept the application as complete.

On a motion by Hewlett, seconded by Jordan, it was voted 4-0 to approve the application, contingent upon approval of the Permit-by-Rule from the Maine DEP.

Jane Brown stepped down as Acting Chair and Anne Cox resumed as Board Chair.

b. Marian Crossman – Shoreland Stabilization - 275 Otis Point Road / Map 217, Lot 019
Will Gartley of Gartley & Dorsky Engineering represented the applicant. The application is to stabilize a section of shoreline along the southwest shore of the applicant's property. Shoreland Zone District: Marine Residential. Photographs were submitted with the application.

Gartley explained they will use 24" to 48" angular stones to stabilize the slope. The stabilization design for the shoreline will include placed stone riprap no steeper than 1.25H:1V. The riprap armor will be underlain by an 18" thick layer of coarse blasted ledge over geotextile filter fabric in order to promote drainage at the base of the slope. He noted that armor stone material will be chosen that matches the existing native stones and ledge as closely as possible in color and shape.

Gartley said the proposed stabilization project is a small section of shoreline and a majority of the work will be done manually. He explained they have received the Army Corps of Engineers permit. He has the letter from DEP accepting his application as complete but is waiting on receipt of the DEP permit. Gartley told Brackett he would send him an electronic copy of the permit from the Army Corps and will do the same when he (Gartley) receives the DEP permit. Brackett noted the town permit fees have been paid and receipts are on the original permit application.

Gartley said the proposed plan is in two sections – a 7' section and a 27' section. He explained that the dock has a couple of sections that go from the land to a piece of ledge, then out to another piece of ledge and it has different elevation and pieces of ledge that come up through it. Then there is a gangway and float that comes out seasonally.

Gartley explained that one tree will be removed though the applicant is adamant that none of the trees be removed. He said there is salt-tolerant vegetation and grasses that are forward of the slope, so they will be careful to not impact those. He also stated that the applicant had used brush and debris to try and stop the waves from wiping out the bank.

Cox asked if the contractor would be trucking the rocks down the hill. Gartley said yes as it would be very difficult to bring anything in by water due to the rocky area. Gartley stated he is

currently in discussions with a several contractors to figure out pricing and which contractor has the best technique to complete the project.

Hewlett asked if Gartley was worried by putting the riprap in two different sections would backwash the rest of the area. Gartley said the piece that is underneath the dock is where the ledge outcrop is and is protected by the other ledge and even the piece in the cove is not that bad. The piece directly in front of Crossman's deck and cottage is starting to lose some land and she does not want to lose the trees as the roots of the trees are holding the rest of the shore line.

The Planning Board referred to page 19, Section 15(b)(1)(a) of the Shoreland Zoning Ordinance which discusses principal and accessory structures. Chair Cox said that is about the only ordinance the town has pertaining to shoreland stabilization other than any vegetation that gets removed gets replanted.

Chair Cox reviewed what is needed to complete the application: the copy of the Army Corps permit and the approval from the Maine DEP. She noted the town permit fee has been paid and the receipt is on the original permit application. A contractor has not been selected for this project at this time.

On a motion by Brown, seconded by Jordan, it was voted 5-0 to accept the application as complete, with the exception of the copy of the permit from the Army Corps of Engineers and the permit from the Maine DEP.

On a motion by Jordan, seconded by Hewlett, it was voted 5-0 to approve the application, contingent upon receipt of the Maine DEP and Army Corps of Engineers approvals, as this application appears to be in compliance with the Shoreland Zoning Ordinance.

c. Mary Ballard – Shoreland Stabilization – 17 Cottage Road / Map 101, Lot 042

Will Gartley of Gartley & Dorsky Engineering represented the applicant. The application is to stabilize a section of shoreline along the northwest shore of the applicant's property in St. George. Shoreland Zone District: Marine Residential. Photographs were submitted with the application. Town permit fee has been paid with the receipt on file.

Gartley said portions of this shoreline had been repaired in 2012. The plan is to repair portions of the riprap that have been damaged/eroded by storm surges. Gartley proposed four improvements to stabilize the shoreline: 1) rebuild existing stone steps and add one additional step; 2) install filter fabric with loam and seed (to replace soil that has washed out through existing rip rap); 3) repair existing riprap to re-establish original design height; 4) install new riprap behind existing riprap. The new riprap will be placed over filter fabric and install new riprap to the same elevation as the existing riprap's original permitted height.

Hewlett asked if the tides are higher now than in 2012 when the first repair was done. Gartley said DEP and Army Corps did a site visit in 2012. Those agencies would not let Gartley & Dorsky do everything they wanted to do. So, they did what they had the permits for, and the applicant wanted to minimize the repairs.

Letourneau asked if the plan was to build the proposed project 6" to 12" higher. Gartley said they were trying to build a small berm to get the waves to break and not curl and take the material back. Gartley said they will use slightly larger stones, as some of the stones are getting tossed.

Chair Cox asked, "What will keep the applicant from having her to do this again in five years?" Gartley said this house sits within several feet of the high tide line. Currently the waves are hitting the riprap berm, going over the top and breaking and curling. He said the plan shows a section which is extremely flat and the proposal is to build that portion up to gain elevation. Chair Cox noted that Gartley is staying with the 9.7' riprap height but in the damaged area, they are extending it horizontally; tapering it back more to get more protection.

Gartley noted that armor stone material will be chosen that matches the existing native stones and ledge as closely as possible in color and shape. Loaming and seeding will be done up to the back of the stone. Gartley said the contractor will be Prock Marine.

Brackett said the permits from the DEP and Army Corps have been received and are on file.

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

A motion was made by Hewlett, seconded by Chase, to approve the amended application with the following conditions: that DEP and Army Corps of Engineers approvals are received. The vote was 5-0. Motion carried.

d. Haskell Point Civic Association – Shoreland Stabilization – Haskell Point Road

Will Gartley of Gartley & Dorsky Engineering represented the applicant Haskell Point Civic Association. The application is to stabilize a portion of the shoreline along Haskell Point Road in St. George. Shoreland Zone District: Commercial Fisheries, Marine Activities and Marine Residential. Gartley noted the proposed project will impact +/- 161 sf of coastal wetland. Photographs were submitted with the application.

The proposed application is to stabilize the slope with a minimum dimension of 24" angular stones. The stabilization design will include placed stone riprap. The riprap armor will be underlain by an 18" thick layer of coarse blasted ledge over geotextile filter fabric in order to promote drainage at the base of the slope. Armor stone material will be chosen that matches the existing native stones and ledge as closely as possible in color and shape.

The applicant proposes to improve the drainage system within Haskell Point Road, adjacent to the proposed shoreline stabilization by installing a catch basin, culvert and install an underdrain.

Gartley said there is an area on the road which has a considerable amount of erosion, especially in the section after the large pile of granite rock on the right. He noted there is only a couple of feet of shoulder on Haskell Point Road, then drops off vertically where they are proposing the riprap.

Brackett said Colin Clark called him regarding this application and DEP was concerned that no trees were being replanted in that section of Haskell Point Road. Brackett told him there was no place to. Brackett took a few pictures of the area, forwarded those to Clark and has not heard back from him. Gartley agreed there is no room to replant vegetation. He said the only way to do it would be to impact the salt-tolerant vegetation at the bottom of the slope and the toe of the slope would have to be kicked out. He thought it would be better to protect the salt marsh.

Hewlett asked if the Town Road Commissioner had looked at this project. Brackett responded that the Town's Road Commissioner has no authority on Haskell Point Road as it is a private road.

Chair Cox asked if the catch basin and the drainage system along the ditch will be new. Gartley said there is a 15" culvert under the road which is partially crushed. He thought they may make a better ditch on the inside of Haskell Point Road and not install the drainage pipe but will replace the culvert under the road. The water comes down and goes across the road and runs over the area they plan to stabilize. He did not think that was the reason they are getting the erosion but believes it is a dangerous situation to have the water running over the road and freezing. Gartley said they are trying to catch it and get it to that culvert.

Chair Cox asked about a new guardrail mentioned in the proposed plan. Gartley said it is the standard MDOT metal guardrail that he put that in because it is a safety issue on that stretch of road with a 4-foot or 5-foot drop and only a 2-foot shoulder. He said for cost reasons, the Association has decided not to put the guardrail in.

Gartley said they have a letter from the Army Corps of Engineers stating all the work is above high water and they do not need to issue a permit, but he does not have the DEP permit to date.

On a motion by Chase, seconded by Jordan, it was voted 5-0 to accept the application as complete, contingent upon receipt of the Maine DEP's permit.

Hewlett asked the Planning Board what they thought about the drop off if the Association is not going to put the guard rail up. Hewlett said she realizes this is a private road but it is steep and has a pitch. Gartley said the riprap will improve the shoulder and wherever there is room, they will place vegetation above the riprap.

The Planning Board discussed the idea of the Haskell Point Civic Association installing a guardrail along this section. This is a private road; but the Board believes this to be a good idea, especially for safety purposes because of the road's steep drop off. The Planning Board hopes the Association will consider installing a guardrail in the future.

On a motion by Hewlett, seconded by Brown, it was voted 5-0 to approve the application as this project will create a safer and more stable shoreline area along Haskell Point Road.

Wharfs:

a. Periwinkle Shore, LLC – 180 Horse Point Road / Map 103, Lot 011

Will Gartley of Gartley & Dorsky Engineering represented the property owner Linda Bean/Periwinkle Shore, LLC. Existing and Proposed Use: Residential.

CEO Brackett told Gartley that a permit had been filed last year on this existing pier and the Board had approved the application for the addition of railings. Brackett said he visited the site last week and the railings were installed. Gartley said since the railings were done last year, the application should be amended to: a seasonal ramp and float.

The amended application is to add a 3' x 60' seasonal gangway and a 14' x 40' float to the existing pier located at 180 Horse Point Road. Gartley notes the location of the seasonal gangway and float was chosen based on the existing location of the pier. The gangway will be connecting directly to the existing pier. The float will connect directly to the gangway. A granite block and chain mooring system will be installed for the float. All seasonal features will be placed within the subtidal zone.

The gangway and float will be prebuilt at a different location. At the end of the season, the gangway will be stored on the pier and the float stored on the upland during the winter months, or on a nearby mooring.

Hewlett asked if there was a purpose for a 40' float. Gartley said there is a specific boat that Ms. Bean wants to be able to dock at that pier. Hewlett asked if it was her lobster boat? Gartley did not know but added that she wanted to be able to keep kayaks at this location and to have more depth at low tide.

Chase asked if this was commercial. Gartley said the house was used as a residential rental. Cox asked if there is any intention for commercial? Chase asked why you need to have a 40' float. Why do you need to have people getting on and off as opposed to one person on an off with a pleasure yacht? Brackett said if this were to be commercial, the applicant would have to come before the Planning Board under the Site Plan Review Ordinance.

Hewlett said the Board should have the depth at low water and Gartley said he did not do any soundings because the pier was already there.

Chair Cox asked if Brackett knew anything about the other floats in that area. Brackett responded that he had had conversations with the abutter and they were okay with the arrangement and the Harbormaster is okay with the 40' float. Cox thought Bean's float would extend into the water approximately the same length as the adjacent float. Chair Cox said looking at the aerial photo, you can get a sense of a depth of the water, defined by the color.

Gartley had a photo of the end of the existing pier at low water. He said there is not much water and it goes out relatively gradually. Hewlett said you are putting a 60' ramp on the existing pier but it is only 3' wide. It will be hard to get kayaks up and down there. Chair Cox said the whole project will be extending less than 100'.

Brackett said he had copies of the DEP and Army Corps of Engineers permits.

SECTION 15 (C)

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, standard has been met, 5-0. There is only one pier being proposed.
2. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion. - On a motion by Chase, seconded by Brown, standard has been met, 5-0. The access from shore has already been developed.
3. The location shall not interfere with existing developed or natural beach areas. - On a motion by Hewlett, seconded by Jordan, standard is not applicable, 5-0. There are no natural beach areas located next to the proposed site.
4. The facility shall be located so as to minimize adverse effects on fisheries. - On a motion by Chase, seconded by Jordan, standard has been met, 5-0. There will be no adverse effects on fisheries based on visual maps, existing wharfs in the area and the Harbormaster's approval of the location.
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 (6') six feet for non-commercial uses. - On a motion by Jordan, seconded by Chase, standard has been met, 5-0. The size of the float is represented to be what the applicant requires to put a particular boat there and the total length of the pier, gangway and float is not out of character with the area. It is a little longer than the other surrounding similar structures but they all project out into open water and it does appear to interfere with the character of the neighborhood.
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 Chase, seconded by Brown, the standard is not applicable, 5-0. None 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 Hewlett, seconded by Jordan, standard is not applicable, 5-0. This project is located in a tidal water.
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 Chase, seconded by Jordan, standard is not applicable, 5-0. None proposed.

9. Except in the Commercial Fisheries/Marine Activities District, structures build 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 no exceed (20') twenty feet in height above the pier, wharf, dock or other structure. – On a motion by Brown, seconded by Chase, standard is not applicable, 5-0. There is no structure being 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.
 - (a) When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete, the construction equipment access way must be restored.
 - (b) Revegetation must occur in accordance with Section 15(S).
 - On a motion by Brown, seconded by Chase, standard is not applicable, 5-0. There will be no vegetation removed.

On a motion by Jordan, seconded by Brown, the application was approved 5-0 based on the findings of Section 15(C) of the Shoreland Zoning Ordinance.

Site Plan Review:

a. ReVision Energy for Herring Gut Learning Center – 57 Factory Road, Port Clyde / Map 101, Lot 051-001

Kathleen Barker represented the applicant. The application is to install a roof mounted 10.24 kW solar electric system, consisting of (32) 320W modules and a (1) 7.60kW inverter located at Herring Gut Learning Center. Shoreland Zone: Marine Residential.

Ms. Barker is the Executive Director at Herring Gut Learning Center. She said the school received a grant to install solar panels on one half of the roof and later on will do another section of the roof. Hewlett asked which side was the other section? Barker said it would be the southwest side.

Letourneau asked why this application needs to be reviewed by the Planning Board. Chair Cox said it is a commercial project, it is a change and a Site Plan review needs to be done per town ordinance. Letourneau asked if the school is a 501(C)(3). Barker said yes. Letourneau said this application is still considered commercial because it is not a residential facility. Chair Cox indicated yes, as the town has just those two generic categories.

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

On a motion by Hewlett, seconded by Brown, it was voted 5-0 to waive an on-site inspection to this site as the work performed on this project will be done on the back side of the existing roof and will not be visible from Factory Road. There were no further comments. The Planning Board began Site Plan Review.

Performance Standards:

1. Preserve and Enhance the Landscape – On a motion by Brown, seconded by Hewlett, standard is not applicable, 5-0. The solar panels will be installed on the back side of the building and has no effect on the landscape.
2. Relationship of the Proposed Buildings/Structure to the Environment - On a motion by Chase, seconded by Jordan, standard has been met, 5-0. The solar panels will be installed on an existing roof and will have no adverse effect on the existing buildings in that area.
3. Vehicular Access - On a motion by Hewlett, seconded by Chase, standard is not applicable, 5-0. The vehicular access will not change.
4. Parking and Pedestrian Circulation - On a motion by Hewlett, seconded by Jordan, standard is not applicable, 5-0. Parking and pedestrian circulation will not be affected by this proposed project.
5. Surface Water Drainage - On a motion by Jordan, seconded by Brown, standard has been met, 5-0. This project will not affect surface water drainage.
6. Existing Utilities - On a motion by Brown, seconded by Chase, standard has been met, 5-0. The proposed project will not impose a burden on existing utilities and town facilities.
7. Advertising Features - On a motion by Hewlett, seconded by Brown, standard has been met, 5-0. Based on applicant's statement, there will be no advertising features. None proposed.
8. Special Features - On a motion by Hewlett, seconded by Jordan, standard is not applicable, 5-0. None proposed.
9. Exterior Lighting - On a motion by Hewlett, seconded by Brown, standard is not applicable, 5-0. No exterior lighting is being proposed.
10. Emergency Vehicle Access - On a motion by Chase, seconded by Jordan, standard has been met, 5-0. There will be no change in the emergency vehicle access.
11. Municipal Services - On a motion by Chase, seconded by Jordan, standard has been met, 5-0. There will be no change to municipal services.
12. Water/Air Protection - On a motion by Brown, seconded by Hewlett, standard has been met, 5-0. This project will reduce water and air pollution.
13. Water Supply - On a motion by Jordan, seconded by Chase, standard is not applicable, 5-0. The solar panels do not use water and will have no effect on the existing water supply.
14. Soil Erosion - On a motion by Jordan, seconded by Brown, standard is not applicable, 5-0. There will be no soil erosion caused by the installation of solar panels on the building's roof.
15. Sewage Waste Disposal - On a motion by Brown, seconded by Chase, standard is not applicable, 5-0. The proposed project will have no effect on sewage waste disposal; none proposed.
16. Hazardous, Special and Radioactive Materials - On a motion by Hewlett, seconded by Jordan, standard is not applicable, 5-0. There will be no hazardous, special, or radioactive materials installed in or stored with this project.

17. Financial/Technical Capacity – On a motion by Hewlett, seconded by Brown, standard has been met, 5-0. The Executive Director stated Herring Gut Learning Center has the capacity to pay for this project as the facility has been awarded a \$30,000 grant to install solar panels.
18. Shoreland Zone – On a motion by Jordan, seconded by Hewlett, standard has been met, 5-0. The solar panels will be on the roof and will not affect the quality of shoreline or body of water.
19. Flood Plain – On a motion by Hewlett, seconded by Brown, standard is not applicable, 5-0. The roof is out of the Flood Plain area.
20. Lot Standards – On a motion by Hewlett, seconded by Jordan, standard has been met, 5-0. The standards have been met. There are no changes to the lot standards due to this project.

On a motion by Chase, seconded by Hewlett, 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.

b. Town of St. George – Meadow Brook Preserve / Map 217, Lot 076

Ken Oelberger of the St. George Conservation Commission (CC) represented the applicant. The application is to construct a three-car parking area (40' x 30'); an 18' wide driveway; install a 18" culvert; and a 4' x 4' kiosk trailhead sign on posts located at Meadow Brook Preserve. The drawing design was amended to read 24' aisle width. There will be clearing and trimming for sight lines. Shoreland Zone District: Resource Protection.

Oelberger said Meadow Brook Preserve (22.5 acres) was transferred from Maine Coast Heritage Trust to the town of St. George in the summer of 2018. The plan is to build a parking lot for public use for the hiking trail. Chair Cox noted this proposed project is in a Resource Protected Zone. Brackett said yes. Hewlett asked if the application required a DEP driveway entrance permit? Brackett said it requires a permit from the town Road Commissioner and Polky had visited the site. Chase asked if this was off Otis Point Road? Oelberger said it was on Turkey Cove Road. Brackett noted the parking entrance is 260' from the center line of Otis Point Road.

Oelberger did not know where the kiosk would be located. Hewlett asked if it will be close to the parking area. Gorrill said the kiosk will be located towards the back of the parking lot, back from the street, away from the cars and will not be visible from the street.

Chair Cox asked where they will put the culvert. Oelberger said there is already a ditch in the area. Gorrill estimates it will be 30' from the entrance to the parking area and the Board amended the application.

Hewlett asked what type of surface the parking area will have. Oelberger said they have received quotes. It will be grubbed to a minimum of 12" deep and then put in 12" depth of sub-base gravel and then 3" depth of 1" gravel on top of that for the parking area. Erosion control will be used in the ditches during the work and then it will be seeded and mulched along with any other disturbed areas. Oelberger said some trees will need to be removed.

Oelberger said the property is designated as commercial use and the plan is to have it used year-round. CEO Brackett's copy of the application permit as well as the Conservation Commissions application permit were corrected, updated, and placed in the file.

Chase asked if provisions have been made for possible overflow of (cars) parking. Oelberger said they based the 3-car parking lot on the usage of parking at other town trails. Chair Cox asked if this location becomes popular, could this location be expanded. Oelberger believes it could be, if necessary. Hewlett suggests installing the kiosk in a location where it will not have to be moved, in case the parking lot needs to be expanded. Oelberger said that is a good point.

The Planning Board discussed the parking aisle width, page 7 of the Site Plan Review. Gorrill explained how he arrived at 22' but agreed that 24' was a better width. Jordan noted the Shoreland Zoning Ordinance had different standards.

On a motion by Hewlett, seconded by Brown, it was voted 5-0 to accept the application as complete with the addition and corrections to both submitted permits.

Performance Standards:

1. Preserve and Enhance the Landscape – On a motion by Chase seconded by Brown, standard has been met, 5-0. The landscape will be preserved insofar as practical by minimizing tree removal during construction and the landscape will be seeded and mulched after construction.
2. Relationship of the Proposed Buildings/Structure to the Environment - On a motion by Jordan seconded by Brown, standard has been met, 5-0. The proposed project will not be seen from the road and the kiosk will relate visually with the wooded terrain.
3. Vehicular Access - On a motion by Hewlett seconded by Chase, standard has been met, 5-0. Based on the Road Commissioners review of entrance area, vehicular access and egress is the best location as can be possible due to the sight line at the road curve.
4. Parking and Pedestrian Circulation - On a motion by Hewlett seconded by Chase, standard has been met, 5-0. The parking aisle layout on the drawing plan was changed from 22' to 24' width to provide better vehicle maneuverability in the parking area.
5. Surface Water Drainage - On a motion by Brown seconded by Chase, standard has been met, 5-0. Best Management Practices will be utilized.
6. Existing Utilities – On a motion by Hewlett, seconded by Chase, standard has been met, 5-0. None proposed.
7. Advertising Features – On a motion by Hewlett, seconded by Chase, standard has been met, 5-0. The size of the sign will be 4' x 4' and will be located outside the Resource Protection area.
8. Special Features – On a motion by Hewlett, seconded by Brown, standard has been met, 5-0. There will be no structures on the site, except the kiosk. The hours of availability will be 365 days a year, 7 days a week, 24 hours a day.
9. Exterior Lighting – On a motion by Brown, seconded by Hewlett, standard is not applicable, 5-0. None proposed.
10. Emergency Vehicle Access – On a motion by Brown, seconded by Hewlett, standard has been met 5-0. Provisions have been made for providing safe emergency vehicular access to this site.
11. Municipal Services – On a motion by Chase, seconded by Brown, standard has been

- met, 5-0. The proposed project will have positive impact on the town's recreational programs.
12. Water/Air Protection - On a motion by Hewlett, seconded by Brown, standard has been met, 5-0. Best Management Practices will be utilized during the construction of the parking lot.
 13. Water Supply – On a motion by Hewlett, seconded by Brown, standard is not applicable, 5-0. None proposed.
 14. Soil Erosion – On a motion by Brown, seconded by Hewlett, standard has been met, 5-0. Best Management practices will be followed to minimize soil erosion and any disturbed area will be seeded and mulched.
 15. Sewage Waste Disposal – On a motion by Hewlett, seconded by Chase, standard is not applicable, 5-0. None proposed.
 16. Hazardous, Special and Radioactive Materials – On a motion by Hewlett, seconded by Brown, standard is not applicable, 5-0. There are no hazardous, special, or radioactive materials proposed for this project.
 17. Financial/Technical Capacity - On a motion by Hewlett, seconded by Brown, standard has been met, 5-0. Based on the applicant's statement, the Conservation Commission has the financial capacity to carry out the project.
 18. Shoreland Zone – On a motion by Jordan, seconded by Brown, standard has been met, 5-0. The proposed project will be situated in an area which is zoned Resource Protected due to floodplain criteria and is permitted under Section 14, Table 1, 27(N7), page 16 of the Shoreland Zoning Ordinance.
 19. Flood Plain - On a motion by Jordan, seconded by Brown, standard has been met, 5-0. The standards required by the Flood Plain Ordinance, either are met or not applicable because this is not a structure.
 20. Lot Standards – On a motion by Jordan, seconded by Chase, standard has been met, 5-0. The parking lot will be setback 25' from the road. The proposed project complies with all parking and setback requirements.

The Performance Standards Review was completed and on a motion by Hewlett, seconded by Brown, the Board voted, 5-0 to approve the application with changes to the parking lot size and the kiosk location.

At 9 p.m., the Planning Board voted to extend the meeting until 9:30 p.m.

c. American Tower & T-Mobile – 74 Wallston Road / Map 215, Lot 024

Bob Gashlin represented the applicant. The application is to install new T-Mobile antennas on the existing tower at 74 Wallston Road with a 4' x 10' concrete pad for a 15kW propane backup generator; a 10' x 15' concrete pad with (3) three cabinets, (7) seven new antenna on existing tower at 165 feet. Existing and Proposed use: ATC Cell Site 372058

Gashlin stated the co-applicants proposed an addition of telecommunications equipment to the existing tower, located at 74 Wallston Road. He stated that for the application presentation he wanted to explain what the co-applicants were looking for in terms of equipment.

Gashlin said the tower facility is already in existence, is located approximately 850' off the main road and is a good distance in the woods. Currently, there is an existing 190' monopole. Verizon is on the top of the pole and US Cellular is at 185' just below Verizon. This facility is within a

75' x 75' fenced compound. Gashlin said both of the existing tenants have similar equipment. They have two shelters on the ground to house their base station equipment.

Gashlin said T-Mobile is looking to mimic that equipment with one or two small changes. T-Mobile proposes to go below everybody; the third location on the tower, at 165'. They are looking to put an antenna rack, like Verizon and US Cellular on the tower. Cables are run down from the antennas to the ground equipment. Instead of equipment shelters, T-Mobile is proposing equipment cabinets instead of a building. They propose to install a 10' wide by 15' long concrete pad. Put the equipment cabinets on the pad. Gashlin said, in addition, T-Mobile is proposing a 15kW propane back up power generator and a 4' x 10' concrete pad, 10' away from the equipment to meet code.

Gashlin stated that Verizon came to the Planning Board in August 2017 for their equipment work and got their equipment approved. The Site Plan Review was approved 5-0. US Cellular came in May 2018, had a Site Plan Review, and was approved 5-0. He said the town's existing approval process is a good process and has worked pretty good for everybody involved. He said T-Mobile's permitting proposal is a little different. He states there are a myriad of Federal laws involved with tower facilities, etc.

Gashlin said Alex Madjeska sent a NB&C cover letter which accompanied the application. He said in the letter it states: T-Mobile and American Towers brought to the Planning Board's attention there is a federal law, called the Middle-Class Tax Relief Act, Section 6409. Three main components to this federal law are:

1. There is a threshold for someone to use Section 6409. The threshold is that it only applies to "eligible" facilities. What an eligible facility is: (one piece in the definition is) an existing tower. T-Mobile's application meets the threshold of the first step.
2. For Section 6409 to be approved, the other threshold is that this application or any application can't be a substantial change to the existing facility. In terms of substantial changes, there are a couple of criteria they typically look at. Such as, is the tower going to be extended by more than 10'. The answer is no in this situation. Another standard is, is the tower going to be expanded more than 20' in width? The answer is no, in this application.
3. The standard they look at to see if it is a substantial application is the existing site going to be expanded. It is not going to be because all of T-Mobile's equipment is going to be done inside that 75' x 75' fence.

Gashlin recapped: "T-Mobile and American Towers have taken a look at the Middle-Class Tax Relief Act. There were three important items that enabled them to use that Act and believe they have met those criteria. Which they have. The larger question I would like to discuss and you are probably all asking how come Verizon came in and went through the site plan ordinance without even talking about the Federal law, got approved and got their equipment done. US Cellular did the same thing, site plan review process, got their equipment on the tower. Now we come in and say we do not want to do the site plan review process. We want to do this."

Chair Cox said this is the first time most of the Planning Board heard that he did not want to go through the Site Plan Review process. Gashlin apologized and said he had just recently become

involved. He said he and CEO Brackett talked earlier in the day. Gashlin said he was not involved when this application was filed on January 10th but if he had been, he would have reached out and had a preliminary discussion with the Planning Board.

Chair Cox asked if there was a problem with going through the process. Gashlin explained why T-Mobile did not go the typical process. He said, theoretically, the Federal Middle-Class Tax Relief Act makes sense from the carrier's perspective. He said overall across the nation, all the Planning Board's in America, each one has their 20 criteria and probably 15 of those do not apply to us. Chair Cox said the Planning Board understood that.

Gashlin said what the Federal Middle-Class Tax Relief Act says, as far as co-locations only, not building new facilities, but expanding existing facilities for technological reasons, they are saying that they are going to streamline that process because across the board, people were running into too many unreasonable Planning Board's, i.e., What are you doing with landscaping? The Carrier says, It's existing. Planning Board says, Well you have to prove it. Gashlin said they were running into problems like that, even though situations haven't happened in this town.

Gashlin said, "Verizon and US Cellular had the ability to do Section 4609 but they just made a decision that instead of sending Bob Gashlin or someone and try to have this discussion, they thought it might be a path of least resistance just to do the site plan review."

Gashlin said T-Mobile made a different decision.

Chair Cox, "You're saying, if I hear you, you can do this work." Brown, "You are telling, not asking." Cox, "Right. You are saying you can do this work regardless, without saying anything to us, according to 6409. In that case, why don't you withdraw your application?"

Gashlin, "Section 6409. You still have the right to do a review process."

Chair Cox, "Okay, now that you are here, do you want to do the review process? Or do you want to withdraw your application, I guess, basically is what I am asking?"

Gashlin, "Okay. Let's talk about 6409 says about the review process."

Cox, "Because we only have 17 more minutes." (left in the meeting extension vote by the Planning Board at 9 p.m.)

Hewlett, "To be honest with you. If you want us to review it, let's go. We now have spent 13 minutes." (Gashlin, Okay.) Hewlett, "And we have set a precedence. We can be stricter but truthfully, like you said." (Gashlin, I understand.) Hewlett, "And most of it's going to be not applicable."

Chase, "You have already been here for two hours, plus."

Hewlett, "We have extended our meeting as a courtesy to you."

Gashlin, "And I appreciate it. And I am only saying what they have told me to come here were my responsibilities, even though I understand what you are saying."

Chair Cox, "Let me ask you what you would like to do?"

Gashlin, "Okay. Here is what I would like to do. Formally, our responsibility to ask you to approve the building permit application and not the site plan review ordinance. Does that make sense?"

Hewlett, "We do not have that." Cox, "We don't do that." Hewlett, "In our ordinances, we don't have a building." Gashlin, "You don't have a building permit application?" Hewlett, "No." Gashlin, "What is this?" Chair Cox, "No. We have building permit applications." Hewlett, "I mean, it is an application for a building permit."

Jordan, "The source of the requirement for the application, is the Site Plan Review Ordinance."

Gashlin, "Right. And 6409, say's specifically: 'governments may only require applicants to provide documentation that is reasonably related to determining whether the requests meet the requirements of 4609.'"

Jordan, "You are not quoting the statute?"

Gashlin, "That is a quote of the statue."

Jordan, "Sounds to me like it is somebody describing what the effect of the statue is."

Gashlin, "No. I will say what someone described, here."

Chase, "Why would they refer to 6409 within 6409?"

Jordan, "I have a suggestion. If you don't want us to conduct the site plan review, we could agree to do that only if we were convinced that the law requires that we not conduct it. You are not going to convince us. We will need to talk to our own lawyer about that. So, if you want to avoid the site plan with you, I suggest maybe table this until we can have a lawyer make time to review the ordinance and tell us what the law is."

Gashlin, "I am obligated to go that route. That is what I have been engaged to do."

Cox, "Okay."

Gashlin, "I do understand the practicality to what we are talking about here where if we went through the 20 criteria right now, we would probably get approval, but."

Jordan, "You want to test the principle. Am I right that the Site Plan Review Ordinance as recently amended allows us to pass the cost of the legal review onto the applicant?" (Cox and Hewlett, Yes, it does.)

Gashlin, "Fair enough. So, can I have your attorney's contact information so I can send him the 6409 information?"

Jordan and Cox, "When he has been engaged. When we have engaged the attorney for this, then we can be in touch. Terry, you have his contact information?"

Gashlin told Brackett he would send him the contract information.

Emerson asked if the Planning Board is tabling the application? Jordan asked if it needs to be tabled or can the Board just let it sit. Chair Cox said they will treat this like a pre-application.

Other Discussion:

Richard Bates asked if some of the ideas that came up in the workshop had been incorporated into the sign ordinance draft circulated on Monday. He suggested the Planning Board approve the changes before the attorney reviews it. Brackett said that Polky also had a couple of suggested changes and thought the Board should discuss these with him, first.

Chair Cox suggested the Planning Board review the latest draft of the sign ordinance and discuss it at their next meeting. Jordan said he got an email indicating that revised ordinance was posted on the website with a link to it, and it was there. Brackett asked if there was a reason for it not to be posted yet. Jordan did not think so other than it might cause public confusion as it may change after the Board hears from the lawyer. Brackett will check to make sure the first draft ordinance was removed.

There was no further business. At 9:25 p.m., a motion was made by Brown, seconded by Hewlett to adjourn the meeting. Motion carried.

Respectfully submitted,

Marguerite R. Wilson
Planning Board Recording Secretary