

## **St. George Public Planning Board Meeting**

**7:01PM at Town Office and via Zoom**

**September 12, 2023**

### **Minutes**

The Planning Board meeting was called to order at 7:01 pm. Planning Board Members present were Chair Anne Cox, Anne Cogger, Richard Moskowitz, Michael B. Jordan, Jane Brown, Alison Briggs and Elaine Taylor. Also present in person were Chris Leavitt, Alyssa Pulver, CEO Terry Brackett and Wendy Carr. Josh McCullough attended by Zoom.

#### **Quorum:**

A quorum was present.

#### **Conflicts of Interest:**

There were no conflicts of interest.

#### **Adjustments to the Agenda**

Maine RSA #1, a subsidiary of US Cellular, Cell Tower 125 Wallston Rd. was moved to the end of the agenda.

#### **Minutes**

Brown moved to approve the August 22, 2023 Planning Board Meeting Minutes, as corrected, seconded by Moskowitz, and by a unanimous vote, the minutes were approved.

#### **Building Permit Leavitt Property Services Replace Wood Piers with Concrete Piers and Raise the Structure 24" (Permit Ran Out) 17 Cottage Road, Map 101 – Lot 042**

##### **Mr. Leavitt**

Good evening. I have got to come before you again after two years to renew a permit. The project consists of raising a historic cottage which is on the historical register down in Port Clyde, raising it up about two feet off the ground and replacing the failing wooden piers underneath with new concrete piers. That includes lifting the fireplace, so it won't look much different than it does right now. It will just sit a little higher on the earth. The application has only changed in regards to dates. All the information in there is exactly what you had prior to when it was approved back two years ago, and the scope has not changed. All permits from the DEP, Army Corp, and the Fish and Wildlife Service have

been approved regarding the timing of the activity. The only thing pending right now is this renewal. All other permits are in place.

**Chair Cox**

There are no changes other than the timing?

**Mr. Leavitt**

That's correct.

**Anne Cox**

It seems like an easy thing then to simply approve this based on the approval we gave two years ago.

**Moskowitz**

Is there anything in our permitting process in the past two years that may affect review?

**Chair Cox**

I don't believe so.

**Brackett**

Not our process. DEP has changed their process, so now it's more legitimate to raise a building like this one than it was back then.

**Chair Cox**

So that's even more in compliance and more appropriate.

**Jordan**

We don't have the ability to extend the permit. We technically have to issue a new permit and that requires payment of the new application fee. Is that done?

**Brackett**

The fee has been paid.

On a motion by Jordan, seconded by Cogger, by a unanimous vote, based on the findings of fact and conclusions of law the Planning Board made two years ago when the prior application was approved, the application was once again approved.

**Building Permit - Michael Rainey Construct a 5' x 50' Aluminum Pier, 3' x 45' Aluminum Gangway and 12' x 20' Wooden Float with Skids, 175 Island Avenue, Map 230 – Lot 077**

**Alyssa Pulver**

I'm Alyssa Pulver from Gartley and Dorsky. I'm representing Michael Rainy and Caitlin Weatherly. We actually came to the Planning Board last July for this project. It's a pier, seasonal gangway and float but before the site walk, he decided to stop the project. Everything you're seeing right now is the exact same thing that you looked at a year ago. The DEP permit and the Army Corps permit are still in effect, so we haven't had to update those. It's a 50-foot pier and seasonal gangway and float. The Harbormaster did reach out to us, and I talked with him today and he just wants us to put some way to locate where the pier is going to go and then he's going to go out there before the site walk just to make sure he's okay with that location.

**Chair Cox**

Well, that is, as you know, that's the process. We schedule a site visit and notify abutters so people can see what it is and see the marking of the furthest out the float will be. That will be very helpful. That leads us to scheduling. Terry, I don't feel this needs to be in the in the paper, so what would be the soonest we'd be able to notify abutters?

**Brackett**

Friday, September 22<sup>nd</sup>.

**Chair Cox**

What about Monday, October 2<sup>nd</sup>? Would that work for you at five o'clock in the evening?

**Alyssa Pulver**

Yes.

**Chair Cox**

Then the site visit is scheduled for Monday, October 2 at 5pm. Then we plan on dealing with it at our October 10th meeting.

**Site Plan Review Maine RSA #1 a Subsidiary of U S Cellular Construct Cell Tower, 125 Walston Road, Map 215 – Lot 029**

**Chair Cox**

Is there anything new you'd like to tell us?

**Josh McCullough**

No, I don't think so. Okay.

On a motion by Jordan, seconded by Cogger, the Board found, by a unanimous vote, that the application was complete, and the motion carried.

#### **Land Use Ordinance Section 1903 Setbacks**

**(a) Towers shall be set back a distance equal to 110 percent of its height from—**

**(1) any public or private road right of way, unless written permission is granted by the Town or a state entity with jurisdiction over the road or the owner of a private road right-of-way**

**(2) any overhead utility lines, unless written permission is granted by the utility**

**(3) all property lines, unless written permission is granted from the affected landowner or neighbor.**

**(b) The Planning Board may accept restrictive easements on abutting parcels to satisfy setback requirements.**

**(c) Towers shall meet all setbacks for residential structures for the district in which the system is located. Setback requirements in this subsection apply to guy wires, including anchors.**

On a motion by Cogger, seconded by Jordan, the Board found by a unanimous vote that the tower will be set back more than 110 percent of its height from all rights-of-way and overhead utility lines (section 1902 (a)(1) and (2)). Although the tower will be set back less than 110 percent of its height from one of the property lines, the application included written consents from each affected neighbor (section 1903(a)(3)). The tower meets the required setback of ten feet applicable to residential structures (section 1902(c)).

#### **Land Use Ordinance Section 1904 Tower Height**

**(a) There shall be no limitation on tower height except as imposed by Federal Aviation Administration regulations and setback requirements**

**(b) The applicant shall provide evidence that the proposed tower height does not exceed the height recommended by the manufacturer of the system.**

On a motion by Jordan, seconded by Moskowitz, the Board found by a unanimous vote that the application included a written statement from the manufacturer of the tower stating that the tower height does not exceed the height recommended by the manufacturer (section 1904(b)).

#### **Land Use Ordinance Section 1905a Design Requirements**

**(a) ACCESS.**

**(1) All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access. All electrical transmission lines connecting to the public utility electrical distribution system shall be located underground.**

**(2) The tower shall be designed and installed such that public access by step bolts or a ladder is prevented for a minimum of 12 feet above the ground, or a locked anti-climb device is installed on the tower, or a locked protective fence at least six feet in height encloses the tower.** On a motion by Jordan, seconded by Moskowitz, the Board found by a unanimous vote that the plans included in the application provide that electrical transmission lines will be located underground and that the tower will be surrounded by a locked protective fence more than six feet in height (section 1905(a)).

**(c) APPEARANCE. Towers shall maintain a galvanized steel finish (non-reflective surface) unless Federal Aviation Administration standards require otherwise or unless the owner is attempting to conform the tower to the surrounding environment and architecture, in which case it may be painted to reduce visual obtrusiveness. The owner will immediately repair any visible oxidation or corrosion.** On a motion by Brown, seconded by Jordan, the Board found by a unanimous vote that the applicant represented at a meeting of the Planning Board and on the submitted construction drawings that the tower will have a non-reflective galvanized-steel finish (section 1905(c)).

**(d) LOCATION. The system shall be designed and located in such a manner to minimize negative visual effect on significant designated resources.** On a motion by Cogger, seconded by Jordan, the Board found by a unanimous vote that the application included a visual study showing that the top of the tower will be visible only from the parking lots of the St. George Town Office and the St. George School, neither of which is a “significant designated resource” (section 1905(d)).

**(f) SIGNS. Towers shall not display any permanent or temporary signs, writing, symbols, logos, or any graphic representation of any kind, except signs warning of safety hazards.** On a motion by Brown, seconded by Cogger, the Board found by a unanimous vote that the plans reflect, and the applicant represented at a meeting of the Planning Board, that the tower will not display any signs (section 1905(f)).

**(g) LIGHTING. Towers shall be lighted when required by the Federal Aviation Administration or at the discretion of the Planning Board.** On a motion by Jordan, seconded by Cogger, the Board found by a unanimous vote that the applicant represented that the tower will be lighted as required by the Federal Aviation Administration, and the Planning Board did not exercise its discretion to required additional lighting (section 1905(g)).

**(h) NOISE. Except during short-term events, including utility outages and severe wind storms, the audible noise due to wind turbine operations shall not be created which causes the noise level at the property boundary line of the proposed site to exceed 50 dBA for more than five minutes out of any one-hour time period or to exceed 55 dBA for any time period. Certification shall be provided by the applicant before construction demonstrating compliance with this noise requirement.** On a motion by Jordan, seconded by Brown, the Board found by a unanimous vote that

the normal operation of the tower as proposed will not generate noise and that the submitted plans show that backup power will be provided by batteries and not by a generator (section 1905(h)).

**(g) VIBRATION. Any proposed tower shall not produce vibrations humanly perceptible beyond the boundaries of the property on which the system is located.** On a motion by Jordan, seconded by Brown, the Board found by a unanimous vote that the applicant represented at a meeting of the Planning Board that the tower will not produce vibrations humanly perceptible beyond the boundaries of the property (section 1905(i)).

**(h) ENDANGERED OR THREATENED SPECIES AND MIGRATORY BIRDS. Installation of a tower shall not have an adverse effect on endangered or threatened species or migratory birds, as determined through consultation with the Maine Field Office of the United States Fish and Wildlife Service.**

On a motion by Jordan, seconded by Brown, the Board found by a unanimous vote that the application included a statement from the United States Fish and Wildlife Service concluding that the tower would have no significant adverse effect on endangered or threatened species or migratory birds (section 1905(j)).

**Land Use Ordinance Section 1908 Notification The applicant shall provide evidence that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.** On a motion by Brown, seconded by Moskowitz, the Board found by a unanimous vote that the applicant represented at a meeting of the Planning Board that the notice referred to in section 1908 is not required because no customer-owned generator will be installed on the site.

**Land Use Ordinance Section 1909 State and Federal Requirements**

**(a) Towers shall comply with applicable Federal Aviation Administration regulations, including any necessary approvals for installations close to airports. Evidence of compliance or non-compliance shall be submitted with the application.** On a motion by Brown, seconded by Moskowitz, the Board found by a unanimous vote that the April 3, 2023 FAA letter and the February 16, 2023 letter attest that this is within the FAA regulations and therefore the standard has been met.

**(b) Towers shall comply with applicable building codes, National Electric Code, and other state and federal requirements.** On a motion by Cogger, seconded by Moskowitz, the Board found by a unanimous vote that the engineering documents included with the application appear to be consistent with state and federal requirements and therefore the standard has been met.

## **Section 1106(a) of the Land Use Ordinance**

- 1. Effect on the existing landscape.** On a motion by Jordan, seconded by Moskowitz, the Board found by a unanimous vote, that the tower will not be visible from off the site, with the minimal exceptions that the top of the tower will be visible from the parking lots of the Town Office and the St. George School.
- 2. Relation to the environment.** On a motion by Brown, seconded by Moskowitz, the Board found by a unanimous vote, that the tower will not be visible from off the site, with the minimal exceptions that the top of the tower will be visible from the parking lots of the Town Office and the St. George School, and therefore will not alter the character of the environment.
- 3. Vehicular access.** On a motion by Jordan, seconded by Moskowitz, the Board found, by a unanimous vote, that the road described in the plan included in the application will provide sufficient vehicular access to the site, which will be only for company servicing and maintenance once construction is completed.
- 4. Emergency access.** On a motion by Jordan, seconded by Moskowitz, the Board found, by a unanimous vote, that there will be sufficient emergency access to the site. The plans call for road dimensions sufficient for fire-truck turnaround.
- 5. Parking and pedestrian circulation.** On a motion by Jordan, seconded by Moskowitz, the Board found, by a unanimous vote, that the project will not be open to the public and therefore will not require significant parking space or provision for pedestrian circulation.
- 6. Utilities.** On a motion by Jordan, seconded by Brown, the Board found by a unanimous vote, that the project will make no use of the utilities specified in section 1106(a)(6) of the Land Use Ordinance.
- 7. Municipal services.** On a motion by Jordan, seconded by Cogger, the Board found by a unanimous vote, that the project will make no use of any of the municipal services specified in section 1106(a)(7) of the Land Use Ordinance.
- 8. Soil suitability.** On a motion by Cogger, seconded by Jordan, the Board found by a unanimous vote, that there is no indication that the soil is unsuitable.
- 9. Air quality protection.** On a motion by Brown, seconded by Cogger, the Board found by a unanimous vote, that the project will not generate significant air pollution.
- 10. Water supply.** On a motion by Brown, seconded by Jordan, the Board found by a unanimous vote, that the project will not require water usage.

**11. Water quality.** On a motion by Jordan, seconded by Cogger, the Board found by a unanimous vote, that the project will not generate water pollution.

**12. Sewage waste disposal.** On a motion by Jordan, seconded by Cogger, the Board found by a unanimous vote, that the project will not generate sewage.

**13. Groundwater protection.** On a motion by Jordan, seconded by Brown, the Board found by a unanimous vote, that the project will not adversely affect either the quality or quantity of groundwater available to properties in the vicinity or the Tenants Harbor Water District.

**14. Surface water and stormwater drainage.** On a motion by Brown, seconded by Moskowitz, the Board found by a unanimous vote, that the project will not alter surface water drainage to any significant extent.

**15. Erosion and Sedimentation Control.** On a motion by Jordan, seconded by Brown, the Board found by a unanimous vote, that the project does not involve filling, grading, excavation, or other similar activities that are likely to result in unstable soil conditions.

**16. Special features.** On a motion by Jordan, seconded by Brown, the Board found by a unanimous vote, that none of the special features listed in section 1106(a)(16) of the Land Use Ordinance are proposed.

**17. Hours of Operation.** On a motion by Jordan, seconded by Brown, the Board found by a unanimous vote, that the tower will operate 24 hours a day, seven days a week.

**18. Advertising features (signs).** On a motion by Jordan, seconded by Brown, the Board found by a unanimous vote, that no signage that requires review under the Land Use Ordinance is proposed.

**19. Exterior lighting.** On a motion by Jordan, seconded by Brown, the Board found by a unanimous vote, that no exterior lighting is proposed, other than that required by the Federal Aviation Administration.

**20. Hazardous and radioactive materials.** On a motion by Brown, seconded by Jordan, the Board found by a unanimous vote, that the project will not involve materials of the kinds specified in section 1106(a)(20) of the Land Use Ordinance.

**21. Mineral extraction.** On a motion by Jordan, seconded by Brown, the Board found by a unanimous vote, that no mineral extraction is proposed.



**22. Accommodation of persons with disabilities.** On a motion by Brown, seconded by Jordan, the Board found by a unanimous vote, that the proposed project is not subject to the laws specified in section 1106(a)(22) of the Land Use Ordinance.

**23. Campgrounds.** On a motion by Jordan, seconded by Brown, the Board found by a unanimous vote, that no campground is proposed.

**24. Mobile home parks.** On a motion by Jordan, seconded by Brown, the Board found by a unanimous vote, that no mobile home park is proposed.

**25. Financial and technical capacity.** On a motion by Cogger, seconded by Moskowitz, the Board found by a unanimous vote, that based on the applicant's representation, the applicant and its contractors have the financial and technical capacity to carry out the project.

**26. Shoreland zone.** On a motion by Jordan, seconded by Moskowitz, the Board found by a unanimous vote, that the construction site is not located in the shoreland zone.

**27. Floodplain compliance.** On a motion by Jordan, seconded by Moskowitz, the Board found by a unanimous vote, that the construction site is not located in a floodplain.

**28. Lot standards.** On a motion by Brown, seconded by Moskowitz, the Board found by a unanimous vote, that the project complies with the setback, lot-coverage, and building-height requirements of the Land Use Ordinance.

On a motion by Brown, seconded by Jordan, the Board found by a unanimous vote that based on the above findings of fact the applicable requirements of chapter 19 of the Land Use Ordinance have been satisfied.

On a motion by Brown, seconded by Jordan, the Board found, by a unanimous vote, that based on the above findings of fact each of the review standards in section 1106(a) of the Land Use Ordinance either has been satisfied or does not apply.

On a motion by Brown, seconded by Cogger, on the basis of the foregoing findings of fact and conclusions of law, the Planning Board unanimously approved the application.

**Chair Cox**

Okay, Josh. That's it. When do you think it's going to happen?

**Josh McCullough**

I would imagine sometime early next year that they're going to start construction, but I don't know if that is scheduled out.

**Chair Cox**

Alrighty, well, thank you.

**Adjournment**

On a motion by Brown, seconded by Moskowitz, the Board decided by a unanimous vote to adjourn the meeting and at 7:48 p.m. the meeting was adjourned.

Respectfully submitted,

Tammy Taylor  
Recording Secretary  
Town of St. George, Maine