

**St. George Planning Board
St. George Town Office
March 27, 2018 - 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, Mary K. Hewlett and Alan Letourneau. Michael Jordan was absent. Also present: Terry Brackett, CEO Brackett, Richard Bates, Steve Clarkin and Chuck Campbell.

Quorum: Alan Letourneau was elevated to voting status. A quorum was present.

Conflict of Interest: None.

Adjustments to Agenda - The following items were added to the agenda:

- A report from Planning Board members on the Local Planning Board and Board of Appeals training session held at the MMA in Augusta was added under Other Business.
- Discussion of Attorney Kelly's letter of review regarding the Shoreland Zoning Ordinance and Site Plan Review Ordinance was added under Cable Ordinance Review.

Review of the Minutes:

Planning Board Meeting – February 27, 2018 – The minutes were amended as follows:

Page 2, under D, line 2, correct to read...100' and each lot **will maintain less than the 1:5 ratio.**

Page 2, under 1. General Provisions. _Move the entire motion and place after # 2. Storm Water Management

Page 2, under 2. Storm Water Management, line 3 changes, delete: **been addressed** and delete the entire next sentence

Page 2, under #2, line 4, change word maintain to **catch**

Page 2, under #2, line 6 (or now line 5 actually), change sentence to read: Gartley noted this **drains to a Resource Protected Area, ...**

Page 3, under M. Fire Protection. line 3, change to read Gartley stated **a dry hydrant has** been...

Page 3, under M., line 8, delete the entire sentence.

Page 3, under M, under the motion, line three, remove **s** from hydrants and unbold the word **this**

A motion was made by Brown, seconded by Hewlett to approve the minutes of February 27, 2018, as amended. The vote was 4-0.

Public Hearing Minutes on Long Property Management LLC Subdivision – February 13, 2018 – The minutes were amended as follows:

Page 4, half way down. Delete the word black and change to deck. Change to read: Hewlett, "One of the houses has a **deck.**"

Page 4, second paragraph from bottom, strike the words **the existing**. Change to read, "Hooking into the existing driveway."

On a motion by Hewlett, seconded by Brown, it was voted 4-0 to approve the February 13, 2018 Public Hearing minutes on the Long Property Management LLC Subdivision, as amended.

Findings of Fact on the Long Property Management Subdivision. Chair Cox noted that two sets of Findings of Fact should be in the record: A Findings of Fact for the Preliminary Plan (completed) and a Findings of Fact for the Final Plan (to be completed). The Planning Board will review the Findings of Fact Final Plan at their April 10 meeting.

On a motion by Brown, seconded by Chase, it was voted 4-0 to approve the Findings of Fact on the Long Property Management Subdivision Preliminary Plan, as written.

Public Comments: None.

Building Permits:

a. Steve and Jan Clarkin – 678 Wallston Road / Map 224, Lot 020

Chuck Campbell, Architect PLLC represented Jan and Steve Clarkin; Mr. Clarkin was present. The application is to move an existing dwelling back approximately 10' from the high-water line and set the dwelling on a new foundation. The proposed structure is located at 678 Wallston Road. The proposed dwelling/cottage will be 26'-1" x 38'-5" with the same size overhang. The deck will remain 10' x 30'. The Shoreland Zone is Marine Residential. Floodplain designation is VE13. The property owner is Jan Clarkin, Augusta, Maine.

The Clarkin's first application was reviewed on October 10, 2017. An onsite inspection was held on October 23, 2017. Chair Cox noted that Board members Chase and Letourneau had not been present for the onsite visit, and asked Mr. Campbell to review the original application information. Campbell said the proposed plan is to move the cottage back to the setback line; the expansion of the project is 30%. Campbell said the project has been rotated slightly, so no portion of the cottage will be encroaching on either of the side setbacks. He said they have rotated the stairs on the front of the cottage descending off the deck, so it does not project into the side setback.

Chair Cox said all aspects of the project were nonconforming. Hewlett said it was nonconforming because the project fell within the 75' setback. Hewlett said at the onsite visit, members noted that the property was relatively steep. She said while there, they discovered stairs were in the middle of the side setback. Hewlett said the proposed project is totally nonconforming, no matter what the applicant does. Campbell said since it is on posts, they want to place a foundation under the dwelling. He said by the ordinance, if they want to do that, they need to move it back as much as practical as determined by the Planning Board.

Chair Cox read the following excerpt from the minutes of October 24, 2017. "The opinion of the Planning Board is that the property owner of the existing nonconforming structure which, in its entirety, is located within 75' setbacks be moved back approximately 10' towards Wallston Road and to conform to the side setbacks as much as practical and to meet the 75' setback. The vote was 5-0."

Mr. Campbell said in terms of lot coverage, they are basically at 20%. That includes all of the driveway which is vegetated, the steps and everything that is shown on the plan. He said where they have pulled the project back and dug into the ground, the height of the building is still 20' maximum from the existing grade on the downhill side. Chair Cox asked if there were only pilings underneath the deck. Campbell said yes and that on the edge of the deck, there would be four piers and columns. Hewlett asked if the basement would be a poured cement slab. Campbell said yes, unless they ran into ledge which they did not think they would.

Chair Cox asked if the septic system and pump station would be moved. Campbell said it did need to be moved and, on the plan, he placed it on the side of the cottage; but he said he needed to discuss the location with CEO Brackett. Brackett asked where the existing well was. Campbell said the septic system would be moved farther away from the well. Brackett said it would have to be placed at the lowest point. Hewlett said they would pump up to the field and Campbell said it already did. Brackett said the septic system was in the setback area.

Hewlett said the worksheet did not include the small shed. Brackett said it did not matter because the shed was out of the buffer zone. Hewlett said, "The shed could stay but just count for lot coverage." Hewlett suggested combining the pictures from the first application with the new application.

The following items were needed to complete the application: The photos from the first application, the agent's letter of authorization and **AS-1**. Hewlett noted that the property owner was Janice Clarkin and Steve Clarkin had life estate to the property according to Gartley & Dorsky survey notes. CEO Brackett said Janice Clarkin could sign the application or submit a letter verifying permission for Steve Clarkin to work with Mr. Campbell.

On a motion by Hewlett, seconded by Chase, it was voted 4-0 to accept the application as complete with the addition of the photographs and contingent upon receipt of Mrs. Clarkin's authorization signature or an agent's letter verifying permission for Steve Clark to work with the architect, Chuck Campbell.

Hewlett said the minutes should note the specific ordinance that permitted the Planning Board to say the applicant was moving the structure away from the water as far as "practical." Chair Cox and the Planning Board reviewed the Shoreland Zoning Ordinance, pages 6-7, Section 12(C) c. ii. & iii. Chair Cox said, "The maximum height is no greater than 20', the applicant is expanding no more than 30% of the footprint, and they have moved the structure back as much as practicable as much as site conditions allow based on the site slope, and the applicant is modifying the building to conform to the side setbacks."

On a motion by Chase, seconded by Chase, it was voted 5-0 to approve the application based on the architect's plans, the proposed structure will meet the standards within the Shoreland Zoning Ordinance, pages 6-7, Section 12(C) c. ii. & iii., and the proposed structure will conform within the existing side setbacks.

Cable Ordinance Review: Chair Cox said she had received a letter and an attachment from Attorney Bill Kelley regarding the Amendments to Shoreland Zoning Ordinance & Site Plan Review Ordinance regarding location of "Associated Facilities" and forwarded those to the Planning Board members.

Chair Cox said she and Jordan discussed the Shoreland Zoning Ordinance and Site Plan Review Ordinance with Attorney Kelly, on two different occasions, and after their discussions felt they needed to look again at how they were addressing these issues. Chair Cox said she and Jordan asked the Select Board to remove the referendum from the May 2018 warrant, because they felt the Planning Board would not have the completed ordinances ready for town meeting. Chair Cox said it might be possible to have the ordinance completed and ready for a vote on June 12, 2018 but she was not sure.

Chair Cox said she and Jordan had been referring to state statute Title 30-A M.R.S. 4361 which states that a municipality may not prohibit renewable energy projects, and that was what they were working to do. She said as it turned out, there was a state statute – Title 38 M.R.S. 480-HH, related to offshore wind energy demonstration projects, such as Aqua Ventus.

Chair Cox said a municipality may not impose stricter standards than the statutes. She said, then you add into this, the Doctrine of Preemption, referred to as "Home Rule" which states, "Any Municipality, by the adoption, amendment or repeal of Ordinances or By-Laws may exercise any power or function which the legislature has power to confer upon it, which is not denied expressly or by clear implication..." Cox said there is a lot of language in statute Title 38 M.R.S. 480-HH dealing with the test projects; there are projects or plans that might be denied expressly or by clear implication, and there is very little guidance in the statute as to what the specific review criteria would be.

In their discussions, Chair Cox said she and Jordan wondered how this would affect the fishing community, in particular. That issue was driving a lot of what they were trying to address and respond to. They felt there were two different issues: The physical – what happens when something lands in St. George; and, the political/economic issue. She said she and Jordan are suggesting that the Planning Board ask the Select Board to approach the Mid-Coast Regional Planning Commission to initiate an independent, economic impact study on the Aqua Ventus project. Chair Cox said, "Even if Aqua Ventus does not land in St. George, what our fishermen have been telling us, is that it is a regional issue and is affecting people in Cushing, Friendship and Boothbay and other areas."

Select Board Chair Bates said this item had not yet been put on the Select Board's agenda but would be in the near future.

Chair Cox said it seemed the Planning Board's task was to pay attention to physical structures and how an ocean energy project would be addressed if it were to land in St. George. Chair Cox said after she reviewed Attorney Kelly's information and the site plan review, she believed that the town's site plan review was quite thorough. Cox indicated there were ways of addressing some of the people's concerns in the existing Site Plan Review Ordinance.

Chair Cox and Jordan will contact Attorney Kelly again and discuss particular kinds of projects, such as decommissioning issues, what would be the greatest possible benefit to the town, or to make sure in a complex project that the town would be named and included. She said Jordan had started working on proposals based on Kelly's statements. Hewlett agreed with Attorney Kelly's assessment that the Planning Board should get the process started by going to the Select Board and request an independent, economic study.

Chase asked if the town should open this up to all energy projects - to include more than just renewable energy projects. This would give the town a baseline, should the issue arise again in 10 years. Chairperson Bates said the placement of any type of ocean energy project in an area could create a ripple effect to other towns. He recommended having the MCRPC look at energy and not limit their scope to just windmills.

A motion was made by Chase, seconded by Brown, that the Planning Board ask the Select Board to request the Mid Coast Regional Planning Commission do an independent, economic study on the impacts of possible offshore energy production. The vote was 5-0; motion carried.

Other Business:

Local Planning Board & Board of Appeals Training: Board members Brown and Hewlett said they attended a workshop at the MMA in Augusta. Brown said that she felt that St. George was doing a pretty good job. What she took away from it was, making sure everything was recorded and basically, at the site visits – travel as a group and listen to the same information.

Hewlett said at the meeting, they discussed the decision-making process; the majority vote rule versus present and voting rule. She asked if the town had that rule because "it depends on what we choose." Brown gave an example. "It was like tonight. If we were at one meeting and you missed the second meeting and then you were there for the voting meeting, are you able to vote if you missed the second meeting, even if you are given the paperwork?"

Hewlett said, "We need to make sure our ordinances say present and voting rule is allowed in procedures, because this example was cited. It helps if we have three members present. The vote could be two to one instead of three to zero and you would have to have a three to zero vote. You could not have a 2-1 vote unless it is 'present and voting rule.' It is the present and voting rule. It is a procedural issue."

Chair Cox and Brackett recommended reviewing our procedures. Brackett had talked with Chair Cox about setting time to review the ordinances, and within the next year, take a night to do just ordinance work. "One night for town business and the other night for ordinance work because the Planning Board has been trying to work on this for five years, and it has not worked out." Brackett will check with other towns to see what towns have for ordinances and look at MMA.

Chairperson Bates said there may be something to that effect in the Town Charter. Hewlett said having that procedure outlined in the town charter would be a good place. Bates said that procedure should apply to all the boards and committees.

Brackett said Cherie Yattaw had noted that the town had not been putting the location of our meetings on the minutes but will be done going forward.

Wyeth Reading Room: Chair Cox reported that the Wyeth Reading Room on Horse Point Road was still in litigation. Brackett told the Planning Board that Ms. Bean could have the buildings removed, but a contractor had been hired to test for asbestos. DEP recently visited the site and talked with the contractor. Brackett said depending on the results of the tests, will depend on how the contractors proceed.

There was no further business to come before the Board. At 8:15 p.m., on a motion by Brown, seconded by Chase it was voted 5-0 to adjourn the meeting.

Respectfully submitted,

Marguerite R. Wilson
Planning Board Recording Secretary