

**St. George Planning Board
St. George Town Office
May 22, 2018 – 6:00 p.m.**

Public Hearing

Proposed changes to the Shoreland Zoning Ordinance, Site Plan Review Ordinance, and the Flood Plain Management Ordinance

The hearing was called to order at 6:00 p.m. by Planning Board Chair Anne Cox. Present were: Jane Brown, Brendan Chase, Mary K. Hewlett, Michael Jordan, Ray Emerson. Also present: Jerry Hall, Richard and Susan Bates, Elizabeth Curtis, Evelyn Blum, Wendy Carr, Scott Sullivan, and Peter Marchant.

Chair Cox asked for public comments on the Shoreland Zoning Ordinance. There were no comments.

Chair Cox asked for public comments on the Site Plan Review Ordinance. There were no comments.

Chair Cox asked for public comments on the Flood Plan Management Ordinance. There were no comments.

Hearing no comments, Chair Cox declared the Public Hearing closed at 6:10 p.m.

Regular Planning Board Meeting

The Planning Board meeting was called to order at 6:25 p.m. Members present were: Anne Cox, Chair, Jane Brown, Brendan Chase, Mary K. Hewlett, Michael Jordan, and Ray Emerson. Also present: Terry Brackett, CEO Brackett, Elizabeth Curtis, Richard Bates, Jerry Hall, Peter Marchant, and Chris Leavitt.

Quorum: A quorum was present.

Conflict of Interest: None.

Adjustments to Agenda: The Site Plan Review Ordinance was added to the agenda and placed before the Review of the Minimum Lot Size Ordinance.

Review of the Minutes:

Planning Board Meeting – April 24, 2018 – The minutes were amended as follows:

Page 1, first paragraph, under also present, add: **Richard Bates**

Page 1, under David Mumford, paragraph 4, lines 1 & 2, change to read: She said CEO Brackett **had researched** property and **there were no additions**.

Page 2, third paragraph, line 3, change to read: ... closer to the water, the **addition** is less...

A motion was made by Hewlett, seconded by Brown to accept the minutes of the April 24, 2018 Planning Board meeting, as amended 4-0-1(abstention due to a previous meeting absence).

Findings of Fact and Conclusion of Law, the Conditional Agreement and Easement deed:

Long Property Management, LLC – Correction made on page 2, H., second paragraph, line 1, the last two words **to waive** were deleted.

On a motion by Chase, seconded by Jordan, it was voted 5-0 to accept the Findings of Fact & Conclusion of Law for the Long Property Management, LLC/Jones Brook Subdivision, as amended, and the Planning Board signed the Findings of Fact.

The Planning Board reviewed and discussed the terms of the Conditional Agreement written by Mr. Long's attorney and the Board had concerns about the statement "applicant shall complete such improvements within five years from the date of the approval of the final plan." Hewlett thought two-year permits were issued and Brackett said a third year could be done, if he had made a substantial start (this is town procedure). Hewlett thought the Board required Long have the road done before he started selling lots, and this agreement stated he had five years to complete the improvements. Emerson said he could not sell a lot until the road was done, but Hewlett said not if the agreement was signed by the Board.

Brackett believed the five-year statement was more a boiler plate clause than Mr. Long saying he wanted five years for the improvements. The Planning Board requested CEO Brackett send the agreement to the town's attorney for review on the number of years requested to complete the improvements and to review the Conditions of Approval which appeared changed.

On a motion by Chase, seconded by Hewlett, it was voted 5-0 to table the Conditional Agreement for the Long Property Management, LLC/Jones Brook Subdivision until the town attorney has reviewed the agreement.

Public Comment: None.

Building Permit:

a. U.S. Cellular – 36 Wellhead Road – Map 215 / Lot 022 / Lease II

Peter Marchant represented KJK Wireless, LLC, agent for U.S. Cellular. The application is to upgrade U.S. Cellular's facility at 74 Wallston Road (Wellhead Road per town website): Remove three existing (panel) antennas, six coaxial cables and associated equipment. Install six new antennas, two Hybrid fiber cables and other associated equipment at the existing U.S. Cellular array at an elevation of 180' on existing tower. Tower height will not be affected, and no additional ground space will be required. The Planning Board received a letter of authorization from KJK Wireless, LLC for Mr. Marchant to speak on their behalf.

Mr. Marchant reviewed the application and stressed this upgrade is only U.S. Cellular. He said with the use of cell phones, customers streaming, watching movies, taking photos, etc., these use a lot of bandwidth and a lot of voice calls are dropped. He said equipment constantly needed to be updated. He said with the new upgrade, it would combine streaming and phone calls and customers would get better streaming and better voice calls. Marchant said three antennas would be taken down, six added, and a hybrid cable and remote units installed behind the antenna would help with the RF frequencies - cutting down the data loss, improving streaming and voice. The appearance of the proposed project would not change.

Hewlett asked if there was an Osprey nest on the tower. Marchant did not know but if there was one, he said they could not touch it; they would contact and work with the proper agencies.

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

On a motion by Hewlett, seconded by Chase, it was voted 5-0 to waive the onsite inspection of this project, as there would be less cables connected to the tower and there would be only a slight visual change.

Site Plan Review:

a. **U.S. Cellular, C/o KJK Wireless, LLC** – Chair Cox said a Site Plan Review would need to be done, even though transmission tower rules do not appear in the Site Plan Review Ordinance; they are currently cited in the Shoreland Zoning Ordinance (SZO) on page 21. Hewlett noted that the engineering analysis was included as part of the application, and the tower is at 75% of usage. There were no further questions. The Planning Board began Site Plan Review.

1. Preserve and Enhance the Landscape - On a motion by Jordan, seconded by Hewlett, standard has been met 5-0. The replacement of the equipment has no effect on the landscape.
2. Relationship of the Proposed Buildings/Structure to the Environment - On a motion by Jordan, seconded by Brown, standard is not applicable 5-0. There will be no effect on the environment with replacing this equipment.
3. Vehicular Access - On a motion by Jordan, seconded by Chase, standard is not applicable 5-0. There will be no change in vehicle access.
4. Parking and Pedestrian Circulation – On a motion by Hewlett, seconded by Brown, standard has been met. There is no change to parking and pedestrian circulation.
5. Surface Water Drainage - On a motion by Hewlett, seconded by Jordan, standard has been met 5-0. There will be no change to the surface water drainage.
6. Existing Utilities - On a motion by Jordan, seconded by Brown, standard is not applicable 5-0. There will be no change in amount of electricity used.
7. Advertising Features – On a motion by Chase, seconded by Jordan, standard is not applicable 5-0. None proposed.
8. Special Features – On a motion by Hewlett, seconded by Brown, standard has been met 5-0. There are no proposed changes to any of the machinery.
9. Exterior Lighting – On a motion by Hewlett, seconded by Chase, standard is not applicable 5-0. None proposed.
10. Emergency Vehicle Access – On a motion by Hewlett, seconded by Chase, standard has been met 5-0. There will be no change and the existing road is sufficient to provide for emergency vehicle access.
11. Municipal Services – On a motion by Hewlett, seconded by Chase, standard has been met 5-0. There will be enhanced municipal services with increased cell phone coverage for U.S. Cellular customers.
12. Water/Air Protection – On a motion by Chase, seconded by Jordan, standard has been met 5-0. There is no proposed change.
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 Hewlett, seconded by Brown, standard has been met 5-0. There will be no soil erosion from this project as the changes will done to the cell tower.
15. Sewage Waste Disposal – On a motion by Hewlett, seconded by Chase, standard is not applicable 5-0. There is no sewage waste disposal associated with this project.
16. Hazardous, Special and Radioactive Materials – On a motion by Hewlett, seconded by Brown, standard has been met 5-0. None proposed.
17. Financial/Technical Capacity – On a motion by Chase, seconded by Jordan, standard has been met 5-0. The applicant has the financial/technical capacity to complete the project.
18. Shoreland Zone – On a motion by Hewlett, seconded by Brown, standard is not applicable 5-0. This project is not in the Shoreland Zone.
19. Flood Plain – On a motion by Chase, seconded by Hewlett, standard is not applicable 5-0. This project is not in the Flood Plain.
20. Lot Standards: On a motion by Jordan, seconded by Hewlett, standard is not applicable 5-0. There is no change to the existing footprint.

The Board has reviewed the 20 Performance Standards and they have been met.

On a motion by Hewlett, seconded by Jordan, it was voted to approve the application pursuant to the Performance Standards Review 5-0.

Building Permit:

b. Harbor Builders Associates – 110 States Point Road, Map 222 / Lot 048

Chris Leavitt represented the property owners David & Robin White, Annapolis, MD. The application is to demo the existing cottage, build a new single-family dwelling, a workshop with a bathroom, install a new septic system and remove the existing shed located on 110 States Point Road. The Shoreland Zone District is Marine Residential, and the Floodplain designation is AE12.

Mr. Leavitt said the structure will be built in New Hampshire from a kit called SIP panel construction. The structure is stacked on a trailer and will be driven to the site. Harbor Builders responsibility will be the foundation, septic and all the preparatory work. He said the company erects the shell and Harbor Builders will finish the interior and exterior.

Mr. Leavitt reviewed the site plan design. He said there are two structures on the property - the existing cottage and a shed. They would be occupying the existing footprint of the cottage plus; they would be encroaching 94 square feet in the buffer zone but no closer to the shoreline. Except for the existing cottage, everything else was behind the 75' setback. The shed would be removed, and the proposed project was to have a garage with a bathroom, outside the 75' setback but within the Shoreland Zone.

Leavitt said there would be three tanks, total - the garage having one, the house having two and the septic system would accommodate the proposed uses. He said the toe fill of the system had to be manipulated to allow for the expansion of the house. He noted that the contour lines were tight and said it was a bank of ledge. He said they looked at the opportunities to move the structure back to comply as best as possible with the 75' setback but with that limitation, the side lots limitations, and the septic, they are boxed in to what they can do.

Chair Cox asked if there was a ledge back behind the existing shed? Leavitt said it was really wet and there were limited areas where the soils would test for a new system. That was why the septic could only go where they placed it. As part of the septic system design, they had included a drainage swale to encourage the surface water off States Point Road, not to impede the septic system.

Hewlett asked what was in front of the garage? Leavitt said it was a gravel driveway.

Chair Cox said the overall expansion of the house was slightly under 14%. Leavitt said correct, and did an additional calculation sheet, so the Planning Board could see the existing calculations and what the contractor was proposing. He said they are adding 389 square feet to the lot. Leavitt said the cottage had an existing screen porch. He did not have any elevations for the garage, but it would be a 28' x 40', a two car with a workshop in it.

Hewlett noted a number of changes which needed to be added or corrected on the application: Bathrooms were changed to a total of three; the number of proposed bedrooms was changed to zero; the dimensions of the garage were added to the description.

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

Chair Cox asked how much of the porch that was there was allowable to keep? Leavitt said that was all currently existing, occupied footprint. Cox said because it had been torn down, could we permit keeping the original footprint there? Brackett said they could do a 30% expansion in that 75' buffer zone and they could not exceed 20' in height or the height of the existing structures.

The Planning Board discussed whether this project was similar to a recent project on Wallston Road. Chair Cox said in this case, they are getting rid of the whole structure, so it is not a 30% expansion on an existing structure. But with the Wallston Road project they had to redo the whole foundation and shift it back 10'. Brackett said the ordinance did allow to remove the structure and replace it and the ordinance says to move it back as far as practicable. Brackett said because of site constraints, he was not sure if they could get another foot squeezed out of it.

Leavitt said the challenge came with siting tanks for the septic and not entering the toe fill of the leach field. Brackett thought the septic already had a variance because it was so close to the foundation. Leavitt said correct. Brackett said the garage was back almost as far as it could go but it could be turned and maybe get it back a little bit more. Leavitt said test bits were done around that area and that was where suitable soils were found to put a system in. He was told it could not be moved back or orientated differently because of a swamp area and wet area which is a natural drainage area where the swale would be put in. Brackett said this similar to Wallston Road. It is a very tight lot.

Chair Cox asked Brackett to explain the difference in the Wallston Road project as opposed to the White's project. Brackett said the cottage sets substantially lower than Wallston Road. It is a very hard driveway. In order for them to set it back 10 feet, they would have to change the septic tank, and definitely the pump tank. He said, "It is a tight lot. It has issues."

Chase said Cox asked why this couldn't be moved back, and Leavitt was saying because of the septic site. Chair Cox said and, "It is going to be torn down. Can he build that screen porch there?" She referred to the ordinance.

Hewlett said he was increasing the nonconformity because he was adding 94 sq. feet. Leavitt said but it was within that section that notes the 30% expansion. Hewlett said right but it is also on the other side of the 75' setback.

Chair Cox said this was a rebuild. Leavitt gave his interpretation. If he had torn it down or the owner had without a permit, then it would have to be 100% be behind 75' but because the Board approves the plan that is proposed, the proposed plan meets the Shoreland Zoning requirements, and can be approved. Hewlett said, "We have not approved it yet." Leavitt said, "That was what would give the Board the ability to approve because it does meet the standards of the ordinance by not increasing its nonconformity." Hewlett and Cox said it was being increased 94 sq. feet. Leavitt said that was within the 30% allowable expansion based on the existing structure, and we are not getting any closer to the resource, so we are not encroaching any more on the nonconforming setback. Chase said, "If he put the addition - the 30% expansion on the existing structure, and then came and asked us to tear it down and put this structure up, then it would be a yes. But because he is looking to tear it down first, you are saying the expansion isn't allowed?" Cox was still not clear about the ordinance.

Brackett said if they were not tearing anything down and came and asked to put the 94 sq. foot addition in there, they could do that. Cox understood that. Jordan said he thought Brendan's point was, having done

that, they could then apply and tear the whole thing down and put this exact thing up because it wouldn't increase the nonconformity. Cox said okay.

Hewlett asked if the septic system, instead of going rectangular towards the water, go sideways? Emerson said no because of the results of soil tests. Cox said it was a wet area. Leavitt said he would not put a plan before the Board that he had not already vetted 100% and had talked with the site evaluator about the septic.

Leavitt said the client wanted this particular house and he felt it fit all the numbers for the ordinance. He and Brackett walked the area, so Brackett could say he was there with Leavitt, and this was a unique situation. Leavitt said Natalie Marceau designed an in-drain system and it was already one-third smaller than a stone field system.

Brackett said the structure was a good distance from the water unlike the project on Wallston Road which sits so close to the water. Chair Cox said she wanted to be fair and even handed. Leavitt understood. Chair Cox asked if this structure could be built without the 94 sq. feet. Leavitt said if the Planning Board said no, the answer is - it could always be built without something.

Chase asked how the Planning Board would work around Chair Cox's point? Jordan read from the ordinance, "If the reconstructed or replacement structure is less than the required setback, it shall not be any larger than the original structure except as allowed 12(C)(1)." He said the issue is that the sentence before that said, "In no case shall a structure be reconstructed or replaced so as to increase its nonconformity." Jordan said he recalled that a couple of times, the Board determined the first sentence to mean, you can't get any closer to the water or the side set back line, even though you are allowed the 30% expansion. Hewlett said they could go laterally, just not closer to the water. Chair Cox felt comfortable saying, it was not increasing its nonconformity in terms of its not getting closer to the water and the Planning Board add that to - "the except as allowed pursuant to the 30%.

Leavitt said Gartley & Dorsky would be pinning the site and shooting all the corners prior to the forms and concrete work. He wanted to be sure the nonconforming corners that are of concern, are labeled and identified.

A motion was made by Jordan, seconded by Brown, to approve the application as it meets Section 12(C)(4) of the Shoreland Zoning Ordinance as the structure is being replaced in which the area added to the footprint within the 75' buffer setback zone is less than 30% of original structure, and it is not increasing the nonconformity as it will not be closer to the water. The vote was taken; the application was approved 5-0.

Site Plan Ordinance:

Jordan reviewed the decommissioning costs under the proposed changes to the Site Plan Ordinance. If decommissioning was done for the State, the land aspect part would be included in the decommissioning costs and would include provisions in the security arrangements, so it would benefit the town. A section of the ordinance wording states, "those arrangements have to be satisfactory to the Planning Board in its discretion." Attorney Kelley's pointed out it was not the Planning Board (the body) who had that discretion, it was the Board of Appeals. The Planning Board applies the rules, the Planning Board did not have discretion.

There were about four other places in the agreement which tended to say the same thing but said them differently. Jordan said he used the phrase, "Shall be reasonably satisfactory to the Planning Board." Attorney Kelley said that was fine. On page 4, Jordan said his proposal was to change "satisfactory to the

Planning Board in its discretion" to "reasonably satisfactory to the Planning Board." Chair Cox said that sounded reasonably satisfactory.

Jordan said there was a provision in the law that after the Public Hearing was held, these things could not be changed. That meant you could not change them in substance, you could change them in wording that did not vary the effect of what it meant. He said another Public Hearing was not need. That was the one change.

A motion was made by Jordan, seconded by Brown to change the wording in Section _____ of the _____ from "satisfactory to the Planning Board in its discretion" to "reasonably satisfactory to the Planning Board." The vote 5-0; the motion carried.

Other Business:

Review of the Minimum Lot Size Ordinance - Brackett would like Board to review sections of the Minimum Lot Size (MLS) which might need to be changed or added to and bring any ideas to the next meeting. He noted the ordinance did not have any references pertaining to signs but had to refer to the site plan review ordinance. People have asked him about reviewing setback issues. Chair Cox said the Comprehensive Plan had many places where it said – "Planning Board to review this," and she would like to go over that. Emerson said the Comp Plan had changed wording in some of its areas to "recommending that the Planning Board do" versus a stricter wording that they were "required to do" and on a time line.

There was no further business to come before the Board. At 8:52 p.m., on a motion by Jordan, seconded by Hewlett, it was voted 5-0 to adjourn the meeting.

Sincerely,

Marguerite R. Wilson
Planning Board Recording Secretary