Jay Planning Board

# May 18, 2021

**Board:**  Chair Delance White, Barbara Cook, Susan Theberge, Mike Hobbs, and Dennis Stevens,

**Staff:** Ronda Palmer, Code Officer

**Guests:** James Morin, John Titus, Burns & McDonnell; Matt Manahan, Pierce Atwood; Gerry Mirabile, NECEC; Sally Daggett, Town Attorney – Jensen Baird, Donna Perry, Sun Journal; Elliott Eno, Daily Bulldog, John & Jean Gatchell, Walter Leblanc and Terry Bergeron

The meeting began at 6:00 PM and was presided over by Chair Delance White.

**Minutes – April 13th & May 4th Public Hearing**

Barbara Cook made a motion to accept the minutes of the April 13th Planning Board meeting and minutes from the May 4th Public Hearing as written. Dennis Stevens seconded the motion and it passed unanimously.

**NECEC – Shoreland Zoning application**

Motion was made by Susan Theberge and seconded by Barbara Cook that the following items were not applicable: Minimum Lot Standards; Principal and Accessory Structures; Pier, Docks, Wharfs, Bridges; Campgrounds; Individual Private Campsites; Commercial & Industrial Uses; Parking Areas; Signs; Septic Waste Disposal; Mineral Exploration & Extraction; Agriculture; Timber Harvesting; Clearing of Vegetation; Revegetation Requirements; Disposal of all wastewater; Conserve shore cover and visual, as well as actual, points of access to inland waters; and Avoid problems associated with flood plain development and use. Motion carried.

**Road & Driveways:** Representatives stated there will be no permanent roads or driveways associated with the project in the Town of Jay. Prior to construction activities, NECEC will establish temporary access points from public and private roadways for equipment access to the corridor for construction and maintenance purposes. These temporary access ways will be in place for less than 18 months, and do not meet the definition of a road as that term is defined in Section 17 of the Shoreland Zoning Ordinance. Matted access ways will be used over any wet areas and streams but there will be no in stream work and mats will be removed and all areas will be restored to pre-existing conditions.

Motion was made by Sue Theberge and seconded by Dennis Stevens that the application meets the standards of the ordinance. Motion carried.

**Storm Water Runoff:** The site will always be stabilized. Erosion and sedimentation control will be set up at natural resources; silt fence, hay bales and water bars will be used. As the process moves along, embankments will be restored. When the project is complete the area will be restored to original contours, stabilized and revegetated.

Motion was made by Sue Theberge and seconded by Dennis Stevens that the application meets the standards of the ordinance. Motion carried.

**Essential Services:** Motion was made by Sue Theberge and seconded by Dennis Stevens that the application meets the standards of the ordinance. Motion carried.

**Hazard, Storm Damaged & Dead Tree Removal:** Barbara Cook asked if all dead trees will be removed. The Board also questioned who would determine if the trees were damaged. They have inspectors, but not foresters to inspect and determine if they will fall on the lines.

Motion was made by Sue Theberge and seconded by Dennis Stevens that the application meets the standards of the ordinance. Motion carried.

**Exemption to Clearing & Vegetation Removal:** The corridor needs to be cleared by 75 feet, so trees will need to be removed.

Motion was made by Sue Theberge and seconded by Dennis Stevens that the application meets the standards of the ordinance. Motion carried.

**Erosion & Sedimentation Control:** Erosion and sedimentation control will be placed at resource crossing and steep slopes once complete areas will be seeded, mulched and revegetated to match existing vegetation.

Motion was made by Sue Theberge and seconded by Dennis Stevens that the application meets the standards of the ordinance. Motion carried.

**Soils:** Third party inspectors will be present on the project.

Motion was made by Sue Theberge and seconded by Dennis Stevens that the application meets the standards of the ordinance. Motion carried.

**Water Quality:** Sue Thebergeasked about the residents that attended the public hearing that had an organic farm. The applicants stated that they had been in contact with them and that they, along with all abutters, would be notified of spraying. The organic farmers have been in contact with CMP’s education management team and a plan has been worked up.

Motion was made by Sue Theberge and seconded by Dennis Stevens that the application meets the standards of the ordinance. Motion carried.

**Archaeological Sites:** Member of the Board asked where on the corridor these sites were. The applicants explained that the location is not normally disclosed to protect the sites but during construction they will be marked and protected. All workers will be trained that if any artifacts, remains, old wells or foundations are found, their supervisor will be notified, as well as, the State Historic preservation office so they can investigate.

Motion was made by Sue Theberge and seconded by Dennis Stevens that the application meets the standards of the ordinance. Motion carried.

**Will maintain safe & healthful conditions:** Sue Theberge asked about decommissioning the project either at end of life, if voters halt the project or if Avagrid sold would the infrastructure come down and if there is a time frame for that to happen? Representatives stated when infrastructure is not in use it is the practice of the company to take down or decommission. Representatives stated that nothing is in writing but they normally deenergize, remove and revegetate. There is no decommissioning section in the shoreland zoning ordinance so no condition could be made but representative at the meeting did give their assurances that it would be decommissioned.

Motion was made by Dennis Stevens and seconded by Sue Theberge that the application meets the standards of the ordinance. Motion carried.

**Will not result in water pollution, erosion, or sedimentation to surface waters:** Barbara Cook asked about fueling of equipment in resources. Representatives stated that the equipment will be fueled prior to arrival at the site, and they will be refueled 100 feet from resources, if refueling is done in a resource it will be done under DEP standards and a secondary containment will be used.

Motion was made by Sue Theberge and seconded by Dennis Stevens that the application meets the standards of the ordinance. Motion carried.

**Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat:** Barbara Cook questioned nesting birds. Representatives stated that eagle and nest studies have been completed as part of the DEP permits and that procedures are in place.

Motion was made by Sue Theberge and seconded by Dennis Stevens that the application meets the standards of the ordinance. Motion carried.

**Will protect archeological & Historic resources as designated in the comprehensive plan?**

Motion was made by Barbara Cook and seconded by Dennis Stevens that the application meets the standards of the ordinance. Motion carried.

Sally Daggett told the Board that the next step would be to adopt a written decision she suggested that the Board could start with the findings of fact provided by NECEC and make any changes they feels should be made or start from scratch but need a finding of fact and conclusion of law. She also recommended that they adopt language that is generally at the end of permits that gives time constraints, appeals period etc..

Motion was made by Dennis Stevens and seconded by Sue Theberge to add the following language which is typically in the Town of Jay’s Shoreland Zoning Permits.

1. The Planning Board and Code Enforcement Officer approve the application for Shoreland Zoning Permit #21-01, provided that all applicable standards of the Shoreland Zoning Permit shall be met as proposed.

2. Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

3. This permit is approved based upon the submitted application and supporting documents and the above stated findings and conditions and remains valid only if the permittee complies with the proposal as set forth in the application and with the conditions stated above. In addition, any person aggrieved by this decision may, within 30 days, appeal this decision, in writing, to the Board of Appeals.

Motion carried.

Motion was made by Sue Theberge and seconded by Dennis Stevens to approve Findings of Fact and Conclusion of Law as presented by NECEC along with the orders and authorize the Chair of the Board to sign the permit. Motion carried.

Motion was made by Barbara Cook and by Dennis Stevens to add in the following section to have the permittee sign the permit.

**The permittee understands and certifies that:**

* The permit is issued on the representations made herein and on the application for permit;
* The permit may be revoked because of any breach of representation;
* Once a permit is revoked all work shall cease until the permit is reissued or a new permit is issued;
* The permit will not grant any right or privilege to erect any structure or use any premises described for any purposes or in any manner prohibited by the ordinances, codes, or regulations of the municipality;
* The permittee hereby gives consent to the Code Enforcement Officer to enter and inspect activity covered under the provisions of this permit;
* The permit form will be posted in a conspicuous place on the premises in plain view; and
* Further, the permittee hereby certifies that all the statements in, and in the application for this permit are a true description of the existing property and the proposed project.

Permittee: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_

Motion carried.

The Permit will be drafted and both the Chair and a representative from the NECEC will sign the permit.

**Set next meeting date**

Ronda informed the Board that there may be a Shoreland Zone and Flood Plain permit to act on in June on Parker Pond. The application has not yet been submitted but if it is a meeting will be held on June 8th. If the application is returned a site visit will be requested.

Motion was made by Delance White and seconded by Sue Theberge and seconded to adjourn at 7:10 PM. Motion carried.