



CONSERVATION COMMISSION
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MINUTES OF THE CONSERVATION COMMISSION

Wednesday, August 10, 2016 – 7:00 p.m. – Town Hall Conference Room

Members Present: Chair Chip Hussey, Bill Bilodeau, Laura Byergo, Joe Fredericks

Chair Hussey opened the Conservation Commission meeting at 7:00 p.m. A roll call was taken by the Chair; he announced a quorum was present and the meeting was being recorded.

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| <ol style="list-style-type: none">1. 57 McShane Avenue<ol style="list-style-type: none">a. Shoreland Permit Applicationb. NHDES Wetlands Bureau After-the-Fact Dredge & Fill Application |
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James Gove, Gove Environmental Services and representing the homeowner, addressed the Commission. The homeowner, Jenifer Campbell, was also present. The area of wetland shown on the plan is fresh water, and becomes saltwater further back. J. Gove pointed out the tidal wetland boundary as well as the fresh water wetland boundary. He also noted that it was part of Pickering Brook.

Work has disturbed the 100' tidal buffer zone. Work ceased once it was discovered there was an issue. An after-the-fact Wetlands Permit Application has been submitted. A Shoreland Permit Application has also been submitted due to some work done in the tidal buffer zone as well as outside the tidal buffer, but still within the 250' shoreland area. There is also a proposal to put in a temporary seasonal dock. J. Fredericks noted there is work being done in the inland wetland setback.

J. Gove reviewed the NH Wetlands Permit, which is for an additional 525 sq. ft. An old storage trailer will be removed that covers 3,260 sq. ft. The dock is proposed to be 6' x 40'. The Shoreland Application covers work in the shoreland area, which will be pre-construction impervious surface and is 5,150 sq. ft.; it will be expanded to 6,530 sq. ft. The updated dock plans were reviewed.

B. Bilodeau asked if there was heavy construction on the property over the past several months. The response from the applicant was that it had been shut down. The work that was started was discussed. Two foundations have been poured; there is a construction road in the back to the construction area. The only change in the plans since they were told to stop work was the addition of the seasonal dock.

L. Byergo noted it was clear they were well within the 100' protected area where building was not allowed. J. Gove stated it was previously a disturbed upland buffer zone; prior to construction it was lawn. L. Byergo asked their understanding on a non-conforming structure and the results of changing that type of structure. J. Gove responded that would be for an attorney to address at the ZBA level. He was present specifically to talk about the wetlands and shoreland. DES has no issue with the work in the upland tidal buffer zone because it was previously disturbed and the shoreland area. L. Byergo stated it was within the 100' protective area that is of concern to the Conservation Commission. J. Gove stated it

was in the disturbed upland tidal buffer zone, and falls under a different set of criteria than an undisturbed upland tidal buffer zone. L. Byergo clarified that since the owners have been ordered to stop, they haven't changed their plans; J. Gove was in agreement.

Building within the 75' inland wetland setback isn't subject to a DES permit, and is within the Town of Greenland's zoning laws. J. Fredericks noted that there is nothing about prior disturbing in the Ordinance, and that's clearly in violation of the Town's Wetland Ordinance. J. Gove was in agreement, stating that would be addressed separately. J. Fredericks added it would be addressed at this meeting unless they were coming back to the Conservation Commission; J. Gove responded they would be returning. He continued that at this meeting they would be addressing the State permits.

The engineer may have found an abandoned septic system. Chair Hussey asked they reduce the amount of erosion. He continued that they had a right to add a dock, but they should check with their engineer about recommendations for securing it in high winds. He further recommended the applicant meet with the Town Planner to begin the ZBA process, sooner rather than later. They may have to go to the Planning Board for a Conditional Use Permit. There are issues with the setbacks. J. Gove responded that they would address the State permits and then return to the Town level to address the non-conforming and 75' buffer.

B. Bilodeau questioned the pressure-treated wood dock. He suggested doing a composite dock rather than pressure treated. Chair Hussey added that pressure treated docks in the water are not allowed. J. Gove stated they would address the dock structure to be either aluminum or composite.

L. Byergo clarified that the shoreland work was going to increase from 5,150 sq. ft. to 6,530 sq. ft., or a difference of approximately 1,400 sq. ft. She questioned the difference between that square footage and what appeared on the plan, stating the plan indicated more (3,700 sq. ft. compared to 1,400 sq. ft.). J. Gove explained that whatever is within 100' is covered by the Wetlands Permit; both shoreland and wetland are combined into the Wetlands Permit. A separate Shoreland Permit is filed for areas outside the 100'. If you receive a Wetlands Permit for the 100', you automatically have your Shoreland Permit. However, if the project sits along the boundary, that number will change because what's outside has to be calculated into the 100'. J. Gove pointed out on the plan the impervious surface that was covered by the Wetlands Permit as well as what was covered by the Shoreland Permit. L. Byergo clarified that the original numbers cover 100' out, which was shoreland rather than wetland; J. Gove was in agreement.

L. Byergo continued that what was being proposed in the wetland tidal buffer is an additional 3,700 sq. ft.; J. Gove agreed. The proposed area is 2,165 sq. ft.; the area of primary impervious is 485 sq. ft., proposed is 1,170 sq. ft. The area of impervious structure is being reduced. The Shoreland Application indicates the increase will be 525 sq. ft.

Chair Hussey requested that when they return, the existing lawn should be indicated on the plan. The existing driveway is impervious and will not be changing. Chair Hussey stated that there was no further action required by the Conservation Commission. J. Gove stated that the State would like recommendations on the Wetlands Application; L. Byergo suggested including a letter.

Chair Hussey suggested the following be included in a motion: better erosion control on the path to the dock and pressure treated wood cannot be used on the dock. L. Byergo added the applicant should provide mitigation for work that has been completed or to change their plans. Further, they should look to improve the wetlands area because they have extended into a protected area with a new building. Chair Hussey felt they were extending into an area that was lawn. J. Fredericks agreed with L. Byergo; the applicant should have been aware of the State and Town regulations on building in the wetlands.

He added that the Conservation Commission should have looked at an application before any work was started and they were looking at it after the major disturbances had occurred. L. Byergo stated there was a fundamental difference between a lawn, which is a pervious surface, and a foundation which is no longer a pervious surface. While J. Gove agreed the Conservation Commission had jurisdiction over the 75' wetlands buffer zone, the State doesn't have a buffer. J. Fredericks responded that they were approaching it as a holistic issue rather than having to come back and deal with the issue again with the inland wetlands.

There was a discussion about the location of the shed and that it would be well within the wetlands protection area. L. Byergo suggested they replant trees in the area where the temporary shed was located and already disturbed. J. Fredericks clarified there should be some lasting mitigation that would help better the land. The applicant stated they have not cleared any land; however, they did remove a dead tree.

MOTION: *Chair Hussey moved to recommend better erosion control on the path to the dock and pressure treated lumber cannot be used on the dock. Second – J. Fredericks; one in favor, two against. MOTION FAILED*

J. Fredericks stated that the foundations were in and the major damage has already been done; he would like to see it stopped. If this had been reviewed prior to any work being done, he would not have approved because it was inappropriate for the lot. He continued that he would recommend the foundations be removed and land restored, or stop and do what is possible to lessen the damage. No decks, no dock.

The Conservation Commission understood a building permit had been issued. J. Fredericks stated the applicant should have been aware of the Town ordinances and State laws.

MOTION: *L. Byergo moved that a letter be written to DES recommending better erosion control on the path to the dock and pressure treated lumber cannot be used on the dock. Further, to recommend that DES consider requiring some mitigation efforts because the applicant is dramatically increasing the impervious surface in the wetlands. Second – J. Fredericks; three in favor, one abstain (J. Fredericks). MOTION CARRIED*

2. Portsmouth Country Club: 15th Hole Pond Grading – Marc Jacobs

Marc Jacobs, Wetland Scientist of record for the Portsmouth Country Club, addressed the Commission. The Portsmouth Country Club is proposing an expansion of the existing pond at the 15th hole. There is an area of freshwater wetlands between the salt marsh and cart path. There is an existing pond of approximately 2,500 sq. ft.; the proposed pond will be approximately 18,000 sq. ft. surface area. The total disturbed area is 39,703 sq. ft. and lies within the 100' tidal buffer zone. There is also freshwater wetland impact in some areas. Those impacts are approximately 5,405 sq. ft. of forested and emergent freshwater wetland that will be impacted. Total freshwater impacts are 7,943 sq. ft., which includes the total of the existing pond and cart path. The cart path will be pushed further into the wetlands. The pond will largely be built in upland; the edge will encroach on the wetlands. There are no direct impacts proposed for the salt marsh.

Objectives for enlarging the pond include: run-off flows into the cart path and directly into the wetlands; the pond will capture that and assimilate it into the pond before it gets to Great Bay. The trees around the pond replaced bunkers that were removed; golfers are hitting the trees and the course is becoming

unplayable. To meet PGA standards, enlarging the pond is being proposed; it will make the course challenging and playable.

B. Bilodeau suggested moving the cart path to the low side of the pond. M. Jacobs stated that project is located entirely in previously disturbed tidal buffer zones. J. Fredericks noted that the pond will come perilously close to the center of the fairway; M. Jacobs was in agreement. M. Jacobs stated he has been discussing the project with DES and Eben Lewis has been to the site. The course conducted a pre-application site walk with E. Lewis; no Shoreland Application will be needed. A standard Wetlands Permit will be needed for a minor impact of less than 20,000 sq. ft.

J. Fredericks stated he would like to see the cart path remain where it is, and was concerned they were encroaching on the wetlands. He suggested they elongate the pond along the sides so it doesn't encroach on the fairway and not move the cart path. The current pond does overflow into the wetlands; the new pond will have emergency spillway rip-rap.

The cart path is asphalt in places and gravel in others. L. Byergo asked if the cart path would get undermined by flooding. M. Jacobs responded that the grade of the cart path is proposed to be raised 2' to 3' in elevation over the current path.

It was noted that this discussion was for informational purposes. M. Jacobs was looking for input before submission as well as guidance on the possibility of a Conditional Use Permit. Chair Hussey suggested he meet with the Planning Board Consultant.

L. Byergo felt the proposed changes were for aesthetic reasons. They were pushing into the wetlands and trees were being taken down which are an environmental benefit. There was a discussion regarding how the existing pond and the proposed changes impact tournaments at the course. J. Fredericks was not in favor of the path being pushed out further. L. Byergo was concerned how the increase in grade would impact run-off and affect the natural flow of water. M. Jacobs explained the current flow of run-off and how it would flow after the pond was excavated.

L. Byergo suggested moving the path so it came up the other side. If the path was left in the same location, would they be back asking to add rip-rap or make other changes to the cart path? M. Jacobs stated that the elevation of the cart path has been calculated to be well above the highest observable tide line. Chair Hussey asked to see the plantings on the marsh side that would be used to protect it from high water and winds. The current cart path, at its lowest elevation, appears to be at 13.5' to 14'; it will be elevated to 16'.

Chair Hussey asked about off-site soil disposal; it had not been addressed. Would they replace trees that were going to be removed? M. Jacobs responded "not to his knowledge". Was the pond going to be aerated? Response: all ponds were aerated with the exception of Hole 14. Chair Hussey requested they check on one open culvert rather than three pipes. M. Jacobs responded that one large culvert would require the cart path to be elevated more, but would check with the engineer. L. Byergo questioned other treatment of the ponds. They would check with the Superintendent, who works closely with the State on that issue.

In closing, J. Fredericks asked that they have their design group look into keeping the cart path in its existing alignment and elongating the pond so there was no encroachment onto the wetlands. Other concerns were soil disposal, aeration of the pond and discharge.

3. 46 Spruce Lane: Wetlands Agricultural Permit

David Outhouse addressed the Commission. The applicant proposed to add a pond on his property, also known as Crescent Moon Farm. It will be located below the existing pond. The proposed pond will be used to enhance wildlife benefits, irrigation for the Christmas trees, and extensively for training retriever dogs. There are no wetlands; however, there is a man-made swale. There will be a dike in between the existing and proposed ponds. Maximum depth will be 6'.

MOTION: *J. Fredericks moved to authorize Chair Hussey to sign the Wetlands Agricultural Permit Application for 46 Spruce Lane. Second – B. Bilodeau; all in favor. MOTION CARRIED*

4. Climate Rise in the Seacoast (C-RiSe) Discussion with Board of Selectmen – Monday, August 22, 2016

The Conservation Commission has been invited to attend the presentation at the Board of Selectmen meeting on Monday, August 22, 2016 at 7:00 p.m.

5. Roadway Maintenance by Property Owners

The Board of Selectmen have asked the Conservation Commission to write an article for *The Grapevine* about roadway maintenance by property owners in front of their homes. Culvert maintenance and repair is the responsibility of the Town or State; however, property owners should clean them out. J. Fredericks stated that if they were provided with information, an article could be written.

Chair Hussey mentioned that the Selectmen are looking at drainage and road maintenance. There are active, ongoing discussions the Selectmen's meetings. Chair Hussey suggested that residents talk to the Town Administrator if they have particular concerns. If they want further involvement from the Selectmen, residents should attend a Board of Selectmen meeting.

6. 2017 Budget

The 2017 budget was reviewed. Chair Hussey mentioned that the biggest problem with defending the Conservation budget is that funds are not spent, with the exception of the Education line. L. Byergo reviewed several upcoming courses. J. Fredericks reminded members that once the trails were complete, information sheets and signage would need to be available.

7. Approval of Minutes

a. Wednesday, May 11, 2016

MOTION: *L. Byergo moved to approve the minutes of Wednesday, May 11, 2016. Second – B. Bilodeau; three in favor, one abstain (J. Fredericks). MOTION CARRIED*

b. Wednesday, May 25, 2016

MOTION: *J. Fredericks moved to approve the minutes of Wednesday, May 25, 2016, as amended. Second – L. Byergo; all in favor. MOTION CARRIED*

c. Wednesday, June 15, 2016

MOTION: *J. Fredericks moved to approve the minutes of Wednesday, June 15, 2016. Second – L. Byergo; three in favor, one abstain (B. Bilodeau). MOTION CARRIED*

8. Other Business

L. Byergo will submit a short report from the Southeast Watershed Alliance meeting. She also attended a Saving Special Places conference, New Hampshire's annual land conservation conference, and will do a short report for members at the next meeting.

9. Adjournment

MOTION: *Chair Hussey moved to adjourn at 9:05 p.m. Second – J. Fredericks; all in favor. MOTION CARRIED*

NEXT MEETING

Wednesday, September 14, 2016 – 7:00 p.m., Town Hall Conference Room

Respectfully Submitted: Charlotte Hussey, Secretary to the Boards

Approved: Wednesday, September 14, 2016