



CONSERVATION COMMISSION
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MINUTES OF THE CONSERVATION COMMISSION

Wednesday, September 09, 2020 – 7:00 p.m. – Virtual via Zoom

Members Present: Laura Byergo, Joe Fedora, Brad Lajoie, Joe Russell
Members Absent: Bill Bilodeau, Rich Collins

Chair Byergo opened the Conservation Commission meeting at 7:04 p.m. A roll call was taken; it was announced a quorum was present and the meeting was being held virtually through Zoom and recorded by audio. A checklist to ensure meetings are compliant with the Right-to-Know Law during the State of Emergency was read into the record by Chair Byergo.

Attendance was taken by roll call: L. Byergo – aye, J. Fedora - aye, B. Lajoie – aye, J. Russell – aye.

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| <p>1. DES Major Impact Wetland Permit Application & Conditional Use Permit: 97 Waters Edge (R13, 15)
Owners/Applicants: David Hagner & Nancy Elliott
The owners/applicants are proposing a tidal docking structure with access landing and stairway, fixed pier, gangway, and float for an overall structure length of 74 ft., providing one slip on approximately 112 ft. of frontage along Great Bay.</p> |
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Steve Riker, Ambit Engineering and representing the owners/applicants, joined the meeting via Zoom. There were two applications to be reviewed: NHDES Major Impact Wetland Application and a Conditional Use Permit through the Planning Board.

The Wetland Application has been submitted and accepted by DES and has a file number. DES will be looking for comments from the Conservation Commission. A Conditional Use Permit is needed because a structure and/or work is being proposed in the 100 ft. wetland buffer associated with Great Bay. Both applications will be addressed at the same time. The plan set was for both applications.

The Hagner's were proposing a tidal docking structure on their lot. S. Riker reviewed the plan set with members. Topographic information was provided in the plan set. Also included was the highest observable tide line, mean high water mark, salt marshes associated with Great Bay and Great Bay (Existing Conditions, Sheet C1). The NHDES Permit Plan (Sheet C2) depicted the proposed structure. The proposed structure consists of a 4 ft. x 4 ft. access landing, 4 ft. x 8 ft. access stairway, 4 ft. x 20 ft. fixed pier, 3 ft. x 46 ft. aluminum gangway, and 8 ft. x 16 ft. float. The access landing is constructed similar to a deck that is slightly raised off the existing grade, providing the applicant with a slight step up to access the stairway which goes down the slope associated with the property along Great Bay leading to the fixed pier. The fixed pier is over the jurisdictional area in terms of wetlands. Connected to the fixed pier is the gangway leading to the float. That also provides foot access from the property to the float as well as recreational boating access to Great Bay for the property owners. There is a section of

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salt marsh associated with the lot. The structure has been placed to occupy the smallest amount of space over the salt marsh (the least impacting alternative).

One of the State rules was to maintain a 1:1 width/height ratio for the fixed pier portion of the structure: the fixed pier is 4 ft. wide and must be at least 4 ft. above the salt marsh where it joins land. The purpose is to not have complete shading under docking structures so the vegetation can continue to flourish and grow. Float stops are also required. Float stop detail can be found at the bottom of Sheet D1. Before the float is installed, four piles are driven into the substrate float location, cut at 24 inches above the surface of the substrate, and the tubs associated with the bottom of the float land on the cut piles. That will prevent the entire float and float tubs from resting on the mud at low tide. This was a requirement of DES and the Army Corps of Engineers. The docking structure will 'mud out' at low tide and sit on the float tubs. DES limits the length of structures to 200 ft.

Riverside and Pickering Marine Contractors will be installing the dock. All work will be done from a crane and barge. They will be mobilized to the site via the crane and barge at high tide; when the tide goes out, they will anchor up. They will operate and do the installation exclusively from the barge. They will also use an excavator equipped with a vibratory hammer on the barge. Portions of the structure are prefabricated off-site and will be mobilized to the site on the barge. Construction should be complete in three to four days.

Wildlife habitat maps are not required as part of the application process; a functional assessment is required. Also included in the application: a coastal vulnerability assessment (predicted sea level rise for proposed projects). The NH Natural Heritage Bureau came back with a potential for marsh-elder (threatened in NH and is the only shrub that occurs in the Hagner's tidal wetland). S. Riker has consulted with Amy Lamb at NHB and she had no further concerns about marsh-elder.

S. Riker noted that the application will need to go through Harbor Master review. The docking structures will be looked at strictly from a navigation standpoint—impeding navigation to neighbor's docks, moorings, etc. That review is pending. Any correspondence from the Harbor Master will be forwarded to DES.

S. Riker stated it was a major impact permit. Once approved by DES, the appeal period is 30-days. It will then go to the Governor's Council for approval. The docking structure is located over the public trust and will need approval by that council.

The Conditional Use Permit addresses the criteria required by the Planning Board. Photos and maps have been included in the packet.

J. Fedora asked how the access stairway was constructed. S. Riker responded that there is minor work done onshore. The construction of the access landing and supports for the access stairway are pressure treated lumber. Small footings are placed in the ground to support the upland portion of the structure. All work will be done by hand. J. Fedora questioned the projected sea level rise in 2100, which is approximately the life expectancy of the fixed pier. S. Riker stated that was the median projection based on the NOAA study.

Chair Byergo stated that the pictures indicated there was an oyster reef offshore; she noted it was part of an oyster bed restoration effort by the Nature Conservancy, UNH and others. Chair Byergo asked if they had checked with the Nature Conservancy for their comments regarding the oyster bed. S. Riker responded they had not noticed it until Chair Byergo brought it to their attention. Chair Byergo

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suggested they contact the Nature Conservancy; oysters reproduce in the spring. S. Riker responded they would take that into consideration. DES and Army Corps of Engineering do have time of year restrictions for construction of tidal docks.

Chair Byergo noted there is a boat landing in the area and asked why they did not go off that landing. S. Riker stated the dock is not built over the existing landing because they have to maintain a 20 ft. side setback from the property line extended. In addition, the float cannot be landed in salt marsh, which is in the area of the existing landing.

MOTION: J. Fedora moved to approve the DES Major Wetland Permit Application as presented for 97 Waters Edge. Second – J. Russell; roll call vote: J. Fedora – yes, B. Lajoie – yes, J. Russell – yes, L. Byergo – yes. All in favor. MOTION CARRIED

MOTION: J. Russell moved to approve the Conditional Use Permit for 97 Waters Edge. Second – B. Lajoie; roll call vote: J. Fedora – yes, B. Lajoie – yes, J. Russell – yes, L. Byergo – yes. All in favor. MOTION CARRIED

Conservation Commission signatures are not required on the DES Major Wetland Permit Application but DES would like comments. Chair Byergo stated that her comment would be the Nature Conservancy should be contacted.

2. Conditional Use Permit: 188 Newton Road (R22, 7A)
Owners/Applicants: Donald & Carol Jones, Trustees – Beatrice Family Revocable Trust
The owners/applicants are proposing to construct a residential dwelling, driveway access and septic system with minimum wetland buffer impact for the driveway, grading around the house and septic system.

Steve Haight, Civilworks New England and representing the owners/applicants, joined the meeting via Zoom. Also joining the Zoom meeting were the property owners Donald and Carol Jones. They are applying to the Planning Board for a Conditional Use Permit. The single-family house lot is approximately 9 acres, created in 1996. The septic system had been previously approved and has since expired; the septic system has been reapproved. A Special Exception was granted by the Zoning Board of Adjustment at their August 18, 2020 meeting.

There is an existing gravel driveway and there is no wetland impact. Impacts to the wetland setback are for the existing driveway, a small section of grading for the house, and a little grading for the septic system. The overall lot size is 9.4 acres; expected impact is 5% of the lot.

The house will be approximately 3,000 sq. ft. The property owners have the footprint but not the plans for the house. The garage floor will be approximately 5 ft. below the top of the foundation for the house and will be its own structure and connected to the house. S. Haight clarified it was an attached garage around elevation 26. There will be a breezeway between the garage and house; the finished floor of the house would be 5 ft. above the finished floor of the garage. It will be a two-bay garage.

The leach field is smaller than previously approved due to different products being available. The leach field and tank are as close to the house as possible. The proposed house is smaller than the original footprint. The impacts to the wetland setbacks are grading, not structure.

Chair Byergo stated that the design legend does not list a symbol for delineated buffer setback. S. Haight explained where it appears and the relationship of the house on the overall lot. The right-of-way, common right-of-way, and two lots are existing. The lot had been cleared at one time for construction. The driveway was also put in place. The house was never built. The property owner is following what was constructed previously and current rules.

S. Haight explained that the line with the circle indicated erosion control. A silt sock is placed at the limit of construction so there is no impact outside of that area. It is part of the stormwater. S. Haight also described various other lines and hatch marks on the plan.

J. Fedora asked S. Haight to briefly explain what happens in the fill extension area and the grading of the lower portion in the buffer below the house. S. Haight stated that common fill covered with loam is around the septic system. The fill extension is beyond where the water is expected to flow into the ground. There is also grading around the house to provide frost protection for the foundation and stability for construction of the house. The impacts from the front of the house to the garage are to get the driveway and garage access.

J. Russell asked if the only fill was the triangular portion by the septic and leach field, and the rest grading. S. Haight clarified it was fill and grading. For the grading there was approximately 2 ft. of fill on the back corner; there was a 3 ft. fill on the southeast corner of the house; and a half foot to one ft. of fill by the driveway and garage. The grading is required to move the material out. S. Haight further clarified that for the limits of the grading associated with the site, the fill does not go beyond that; there is no further clearing beyond the limits of the proposed impact.

Chair Byergo clarified that the major impacts are in the area around the 75 ft. buffer. S. Haight responded that most of the impact was the existing driveway. It is an existing gravel road that is going to be maintained and paved to access the house. The major impact was the existing driveway.

Responding to questions from Chair Byergo, S. Haight stated they are proposing to pave the driveway. Any vegetated areas would be grass for maintenance. Chair Byergo stated that given how close they were to the wetlands, the hardtop pavement does have faster runoff as well as salt issues. Her inclination was to suggest they stay with gravel; the property owner stated they would leave it gravel if necessary. Chair Byergo continued that the impact to the disturbed areas could be improved, or reduced, if replanting done was done with native species, grasses, and shrubs. The right plants help mitigate the impact on the buffers.

MOTION: J. Fedora moved to accept the plan for 188 Newington Road subject to consideration of the recommendations made by the Conservation Commission regarding shrubs and native plantings as well as a pervious driveway structure such as gravel in lieu of asphalt. Second – B. Lajoie; roll call vote: J. Fedora – yes, B. Lajoie – yes, J. Russell – yes, L. Byergo – yes. All in favor. MOTION CARRIED

3. Summer Work Update

Summer Intern: Chair Byergo reported that the summer intern has put in approximately 63 hours and should have 10 additional hours of work. The cost should be between \$940 and \$1,040 from the warrant. The summer intern has worked with Chair Byergo to get the easements done. They looked at the vernal pool on Thompson Brook, hoping to identify it as a vernal pool. They felt the back part was a vernal pool and may be able to provide documentation.

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Easements: A concrete tank was found in the easement on Moulton Avenue. B. Bilodeau and the Building Inspector have looked at the tank. The tank looked like it may have been on top of a spring and was 3 ft. to 4 ft. deep. It has become a liability and may be removed once it freezes.

Falls Way: Chair Byergo and B. Lajoie located the beaver dam in Falls Way. Chair Byergo and the Building Inspector, Jack Shephard, looked at three stream bridges. The bridges appear to be showing damage. J. Shephard thought it was possibly due to salt; the capstones are coming off the reinforcements. The Building Inspector will bring it to the attention of the Selectmen.

The Town has easements in Falls Way. There is a concern about the easement line and property line. Trees are being cut down, items are being strewn around, etc. Many of the conservation easement markers on trees cannot be located. The line may need to be reestablished next summer.

Chair Byergo informed members of a Falls Way resident concerned about a tree in the conservation easement falling on his house. The easement deed for Falls Way states trees can only be removed if they are dead or pose a clear security threat. An arborist was brought in to identify if the tree was dead. It was not dead but created a potential risk because it was so close to the house.

Salt Marsh Areas: The Town owns two lots in the salt marsh on the other side of the railway. They found railroad ties thrown into a stream bed and blocking the stream. Larry Day cleared the railroad ties and smelled creosote in the stream. Chair Byergo notified the Fire Chief; she went out to the site with members of the Fire and Police Departments. It was reported to the hazardous spill office; after researching, they found it was historical and not a big impact. She will contact the Selectmen about soil sample testing.

Thompson Brook Trail – Invasive Species: Black swallow wart was found by Chair Byergo. It can overtake meadows and has seed pods that look like a milk weed. It does confuse Monarch butterflies. Chair Byergo organized a day to remove the swallow wart. A priority over the next several years to remove invasive species on the trail.

Thompson Brook Trail - Mowing: The Thompson Brook trail open space field will be mowed on Thursday, September 10, 2020. J. Fedora noted that mowing was done earlier in the day. A nice job was done on the meadow portion.

Thompson Brook Trail - Wildflower Beds: Chair Byergo could not say the new beds seeded last fall were a success, which could have been due to the drought. Next year may be better.

Intern Reports: When the summer intern has completed her work, a report will be sent to members. Chair Byergo stated the new format for the reports and included a map of areas observed by the summer intern.

Target/Lowe's Conservation Easement: Chair Byergo reported she was contacted by the Town to check with a resident who had questions about the easement. This easement is not monitored by the Conservation Commission; it was given to the Rockingham Conservation District. She gave the information to the resident and Town.

Southeast Land Trust & Rockingham Planning Commission: Chair Byergo has been in contact with Southeast Land Trust & Rockingham Planning Commission about the bike trails next to the Coakley

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Landfill. She was interested because there is also a wildlife corridor in that area that connects into Rye along the Berry Brook watershed.

Rolston Park: There is an on-going problem watering Rolston Park, made tougher by the drought. The current solution to watering is a rain barrel put in place by Chair Byergo. She stated the Fire Chief has been very helpful delivering water the barrel but the system still needs to be improved.

High Water Mark Initiative: J. Fedora reported that there was some media coverage on the high-water initiative several months ago by the Rockingham Planning Commission. He was able to speak to Julie LaBranche, RPC. There are signs posted around the seacoast area to educate people about sea level rise. J. Fedora sent her picture of Greenland's marker post; she stated they wanted to have signs where there was a lot of visibility and where there was water to facilitate making the connection. J. LaBranche stated they may be able to help with educating residents on sea level rise. Chair Byergo continued discussion until the October meeting.

Trail Sign: Chair Byergo received a quote from Zak Signage for a trail map sign for the Thompson Brook Trail. She used the sign in the Rolston Park parking lot as her model. It has been there for 10 years and is very sturdy. The sign is metal, set in concrete and has a custom-made panel with a laminated map. An 18x24 panel is \$450, the post is \$390, installation and other charges is \$65; a 10% discount of \$90, for a total of \$814. Funds would be from the warrant. It was noted that the Board of Selectmen was requiring three quotes. An option would be to mount it on a solid 4x4 piece of timber for \$100 rather than \$390. Chair Byergo mentioned the option of an Eagle Scout project but was concerned that it might just have to be rebuilt after a few years, whereas the Rolston Park sign is holding up very well.

Budget: The Conservation Commission will keep the 2021 budget the same. There should be approximately \$2,000 remaining in the warrant article for next year, which is the last year.

4. Approval of Receipts

Chair Byergo presented a receipt for printing in the amount of \$40 for approval. Signs were printed for the buffer restoration area with information on plants and animals that could be found in the park. They were laminated and put up as an educational program.

MOTION: J. Russell moved to approve receipts in the amount of \$39.67 payable to Laura Byergo. Second – J. Fedora; roll call vote: J. Fedora – yes, B. Lajoie – yes, J. Russell – yes, L. Byergo – abstain. Three in favor, one abstain (L. Byergo). MOTION CARRIED

Survey Monkey and all results of the recent survey will cost \$40 and will come from the regular budget. A few highlights from the survey results: people expressed concern Lyme Disease and other tick-borne diseases as well sea level rise. They care more about ground water rise and the impact of climate change on agriculture than sea level rise. People were interested in guest speakers on Saturday mornings or Wednesday afternoons. Chair Byergo will send the report when it is printed.

MOTION: B. Lajoie moved to approve payment of \$40 to Laura Byergo for Survey Monkey expenses. Second – J. Russell; roll call vote: J. Fedora – yes, B. Lajoie – yes, J. Russell – yes, L. Byergo – yes. All in favor. MOTION CARRIED

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5. Old Business

Hunting Signs: B. Lajoie discussed the hunting signs to be placed on Town conservation lands and trail heads. Chair Byergo reminded members that signs would be put up on Thursday, September 10, 2020, and, if interested in helping, to meet at Liberty Lane at 1:00 p.m. She was able to locate Hunter Safety zone signs and three signs for the head of the trail stating it was a multi-use trail. J. Fedora asked if there was a warning sign at the trail head entrance. At one time, there was a handwritten sign which is no longer there; it was taken down by Chair Byergo at the end of last season.

Conservation Commission Appointment: Lloyd Ziel has submitted a request to the Board of Selectmen to be appointed to the Conservation Commission. Alternates are needed.

6. Approval of Minutes

MOTION: J. Russell moved to approve the minutes of Wednesday, July 08, 2020. Second – B. Lajoie; roll call vote: J. Fedora – yes, B. Lajoie – yes, J. Russell – yes, L. Byergo – yes. All in favor. MOTION CARRIED

7. Adjournment

MOTION: J. Fedora moved to adjourn at 8:39 p.m. Second – B. Lajoie; roll call vote: J. Fedora – yes, B. Lajoie – yes, J. Russell – yes, L. Byergo – yes. All in favor. MOTION CARRIED

NEXT MEETING

Wednesday, October 14, 2020 – 7:00 p.m., Virtual via Zoom

Submitted By: Charlotte Hussey, Administrative Assistant