

**Minutes for the April 7, 2004 Conservation Commission Meeting**

**CITY OF PORTSMOUTH  
CONSERVATION COMMISSION  
CONFERENCE ROOM "A"**

**3:30 P.M.**

**April 7, 2004**

**MEMBERS PRESENT:** Chairman, Alanson Sturgis; Vice-Chairman, Charles Cormier; Members, Stephen Miller; Charles Cormier; J. Lyn Walters; Donald Green; Allison Tanner, Brian Wazlaw; and, Alternates, Eva Powers and Barbara McMillan

**MEMBERS EXCUSED:** None

**ALSO PRESENT:** Peter Britz, Environmental Planner

**1. Group Photo for Web-site**

Let the record reflect that everyone was present and the group photo was taken for the web-site

**2. Election of Officers**

Ms. Tanner made a motion to re-elect Mr. Sturgis as Chairman of the Commission; Mr. Walters seconded and all approved with a 7 – 0 vote.

Mr. Green made a motion to re-elect Mr. Cormier as Vice-Chairman; Ms. Tanner seconded and all approved with a 7 – 0 vote.

Congratulations to both Chairman Sturgis and Vice-Chairman Cormier.

**3. Wetlands Bureau Permit Application:**

**a) Michael Clark for Belle Isle**

Mr. Steve Olds, a representative from Millette, Sprague and Colwell representing Michael Clark requested that the application be moved to later in the Agenda since all the representatives had not yet arrived.

The Commission members all agreed with a 7 – 0 vote.

Attorney Bernard Pelech, representing Mr. Clark, stated this a request for a wetlands permit. We have received a City of Portsmouth Variance to be allowed within the 100' buffer. The plan showed the existing conditions of the property on Belle Isle. The manor house will remain, the caretakers house will be removed as well as three classroom buildings, the basketball court which is impervious will be removed and the existing garage will remain. A wood three story school building will be moved to another site or removed. A single family residence will be constructed as well as a pool. The net

reduction is 20% and what is being proposed with 6,401 s.f. of structures within the tidal buffer zone. The pilings under the boat house will be replaced in kind.

Ms. Powers asked how this application was different from the Board of Adjustment application? Attorney Pelech replied that a Variance is a City of Portsmouth application which they have been approved for. The DES requires a separate application for work within 100' of tidal waters. DES automatically refers the application to the Conservation Commission for a recommendation.

Mr. Britz pulled the Board of Adjustment file adding that he wanted to make sure that the same plan being proposed is the same as what was approved by the BOA. The applicant stated that it was the same plan, but the setback was slightly different. Both the City and State use a 100' setback but the State measures from the highest observable tide line and the City measures from the mean high water mark.

The applicant stated two things that will be removed include the basket ball court that will be restored to a permeable surface; the existing caretaker's house will be removed and replaced with loam and seed.

Mr. Green feels that there was an argument made at the BOA as to why the building had to be at this location and feels no one has addressed this issue. He asked why not choose another site. Attorney Pelech replied that was addressed at the BOA meeting. This site was chosen because the existing roadways lead to the site as well as access to the utilities that are pretty much in place. The site is the most appropriate location for the project because of the facts mentioned above. Attorney Pelech stated this was the second site and was approved by the BOA and added that 6,041 s.f. is in the tidal buffer. The total construction is 9,206 s.f. The single family home will be 7,215 s.f. that includes the attached garage.

Mr. Walters asked if the stables and the house sites could be reversed. Attorney Pelech replied there are no utilities at the stables and the area would have to be blasted to get water and sewer to the location. The proposed location has water and sewer in place; therefore, we feel this location would be ready for construction.

Chairman Sturgis stated there is no sewer, it is all septic

Mr. Cormier made a motion to make a favorable recommendation to the Planning Board; Mr. Walters seconded and was approved with a 6 - 1 vote with Mr. Green voting in the negative.

**B) G. W. Woerner for 20 Pleasant Point Drive**

Mr. Woerner could not be present since he will out of the State and sent a letter to Chairman Sturgis requesting to construct a 30 s.f. boat float, a 3' x 7' ramp as well as a 6' x 7' pier.

There will no potential environmental impact to the area since the float and dock will be situated on ledge. The Harbor Master assured Mr. Woerner that he knew where his property is located and stated there will not be any impact to the surrounding areas.

Mr. Sturgis stated he is familiar with the area and Mr. Woerner submitted photographs of the property that the Commission members reviewed. There is no appreciable boat traffic in this area and the dock will not interfere with any boat traffic. It is completely mud flats at low tide and very little water at high tide.

The Commission members then took a few minutes to review the plans and the photographs.

Mr. Walters made a motion for a favorable recommendation to the Wetlands Bureau and Mr. Green seconded and passed with a 7 – 0 vote.

#### **4. Conditional Use Permit**

##### **a) Giovannettone for property located off Lang Road**

Chairman Sturgis stated that a Conditional Use Permit was granted off Lang Road a couple of years ago in 2002 for this property and it was extended to February 21, 2004 and has now expired.

Attorney Pelech stated this application has a history. There is a paved roadway on the corner of Lang and Longmeadow Roads. Mr. Giovannettone proposed to build a 28' x 65' structure for a woodworking shop. Michael Comeau viewed the property and sent a letter that it was more than 50% previously disturbed area. The proposed structure was to be built on existing hot top and also create a crushed stone parking area. There were many issues that came up during the process that delayed the project for seven months. The matter finally came up before the Planning Board and the Board of Adjustment and in both cases the request was granted. A request for an extension of time was granted and will expire in April of 2004. However, during that time, Mr. Giovannettone passed away and the estate has not been settled. A second extension could not be approved; therefore, we have to re-apply and go through the process again. Mr. Giovannettone's son is also into woodworking like his father and is requesting that the approvals be continued. Both Mr. Coker and Mr. Will of the Planning Board recommended that the application be referred back to the Conservation Commission for approval.

Mr. Walters asked if the building would still be used as a wooden hobby shop? Attorney Pelech replied that he did not know the answer to that; however, there will be no changes in the plans from what was approved previously.

Chairman Sturgis stated he has visited the site and there have been no changes made and added that he will have no difficulty in making a favorable recommendation to the Planning Board.

Mr. Green stated he rarely approves new building construction in the wetlands buffer, but that road is an opportunity to dump and if there is any opportunity to dump, it will be dumped there; therefore, this use is a good one for that property and he added he feels that to grant the proposal will do more to protect the wetlands.

Mr. Walters made a motion to make a favorable recommendation to the Planning Board; Ms. Tanner seconded and all approved with a 7 – 0 vote.

**5. Work Session**

**a) 10 State Street - former Pier II restaurant site**

Chairman Sturgis stated that the Commission has never received a request for a work session; therefore, this is a little unusual. New Hampshire Soil Consultants requested the work session and would like to present a proposal. He reminded the Commission members that there was no application before them and to limit comments to areas of concern only because to endorse the project before application has been made, would be premature or as the saying goes “into the closed mouth the fly does not get”.

Amanda Barker, of New Hampshire Soil Consultants and representing 10 State Street, LLC, Raymond Bellville of Appledore Engineering, Attorney Malcolm McNeill and Robert Duval of TF Moran are present and would be more than happy to answer any questions the Commission members may have.

Ms. Barker stated the property is located at 10 State Street between Prescott Park and the Memorial Bridge and is approximately 8,000 s.f. in area on the Piscatequa River and has been a Commercial Waterfront property since the 1800's. We have requested this preliminary hearing meeting because we would like to have some feedback from the Commission members on the project. We are planning to present some of the current design features. The property currently contains a 500 seat restaurant over water and land, a 2-1/2 story wooden commercial structure over land, a wooden warehouse and a deck and dock system over water .

Ms. Barker stated the applicant is proposing to redevelop the property into a four unit residential condominium project. The restaurant will be reconstructed and in the packet submitted, there are two waivers received from the Department of Environmental Services. One is for the reconstruction of the Pier II building over water and we want to demonstrate there will be an overall benefit to the environment to allow this application. The second waiver is for the reconstruction of buildings within the 50' setback of the Shoreland Protection Zone.

The reconstruction of the buildings will be within the same footprint of the existing building. The existing decks and docks will be reconstructed and the existing warehouse will be reconstructed within the same footprint but will be pulled back to about 1/3 or 2/3 of it's size to be used as storage space for the owners of the condominium units. The 2-1/2 story commercial building will be redeveloped into the fourth condo and a shared garage space as well as a stair and elevator column. There will also be a garage constructed to house stairs and elevator and will be connected to the three-unit building to provide for fire escape egress. Timber piles will be placed on the outside of the property for aesthetics. The slope under the buildings will have a new riprap installed where appropriate. Trash volume will be reduced and contained within the garage. Storm water from the roof and parking areas will be collected and will be channeled into storm water management structures to remove silt as well as a grease in an oil water separator.

The garages will also allow for storage of vehicles and reduce risks of accidental oil leaks, etc. There will be an upgrade of the municipal water that will include eliminating the antiquated piping as well as a sewerage injector station that is currently exposed to the river. There will be less emissions and noise from this use. The applicant is also proposing not to use pressure treated timber. This plan will allow more visibility of the river and a sidewalk will be provided for public use. During demolition the deck and dock area will be the last area to be done. Removal of the Pier II restaurant area and the commercial area and warehouse will be done prior to anything else. A boat will be docked at the pier to collect any debris that may have fallen into the water; therefore, there should not be any impact to the river created by the project.

Mr. Bellville a Civil Engineer stated he would provide some engineering aspects of the project to the Commission members.

Robert Duval, the engineer for the applicant, added that he was always pleased to work on an urban redevelopment project and the proposed use is an excellent use for this property. The restaurant will be redeveloped and will make good use of the existing structures, floats, and docks . We are taking a grandfathered uncontrolled site and turning it into a site that will benefit the community. The uncontrolled runoff will also be controlled. The plan shows that the applicant is

making use of existing docks and floats and will take the pressure off other waterfront properties. We want to redesign the site and treat all the impacts. – much less people – much less volume – much less cars – much less sewerage flow and what runoff there is will be brought to a state of the art mechanical treatment center. This project will be a major improvement over what is existing.

Attorney McNeill stated that the next time they attend a work session, they will bring an overlay to show the Commission the before and after. The permitting process will require approval from the DES as well as HDC and the first work session with the HDC is April 14, 2004.

The waivers are dated January 2004 and they address certain specifics of the law for structures over the water and allows the process to move forward.

Steve Miller asked how many parking spaces are on site? Mr. Duval replied about 9 or 10 striped spaces.

Chairman Sturgis thanked the applicants for the information given.

**6. Permit by Notification Process**

Chairman Sturgis stated the Permit by Notification Process was in the Commission members packet to review and the expedited permit will be reviewed by the Commission. The applicant will call Chairman Sturgis and he will either sign off or he doesn't. Assuming we get a timely notice, he will review it or call Charles Cormier and either person will sign off or not.

**7. Other Business**

**8. Next Scheduled meeting: May 12, 2004**

**9. Adjournment**

Since there was no further business to come before the Commission, at 5:10 p.m. Chairman Sturgis adjourned the Meeting and was approved with a 7 – 0 vote.

Respectfully submitted,

Joan M. Long  
Secretary  
Planning Department

/jml