

**REGULAR MEETING  
CONSERVATION COMMISSION  
PORTSMOUTH, NEW HAMPSHIRE  
1 JUNKINS AVENUE**

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**3:30 PM**

**Conference Room "A"**

**JUNE 14, 2006**

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**MEMBERS PRESENT:** Chairman, Charles Cormier; Vice Chairman Steve Miller; Members, Brian Wazlaw, Allison Tanner, Eva Powers, Barbara McMillan, Skye Maher and Alternates James Horrigan and Mary Ann Blanchard

**MEMBERS EXCUSED:** N/A

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

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**I. OLD BUSINESS**

- A) Standard Dredge and Fill Application  
325 Little Harbor Road, Portsmouth, NH  
Assessor Map 204, Lot 5  
Michael R. Clark, Owner

Glen Normandeau, of Pickering Marine, stated that he was speaking in behalf of Michael Clark. The lot is off of Little Harbor Road near the Lady Isle property on the mainland side. It is divided into parcels and Michael Clark retains ownership of one of them and requests a permit for a residential dock on the site. The height and width ratio is just long enough to jut out past the grass and go down off the slope. The whole area is dry at low tide except for a stream that goes under the bridge. It is similar to other structures in the area, such as Currier's Cove. There will be no obtrusive hand rails.

Ms. Powers asked if there was another dock.

Mr. Normandeau stated that he has another dock on the island. This is a separate dock.

Ms. Powers asked if that was an ordinary feature. There should only be one dock per person.

Mr. Britz stated that the State rule is one dock per residential lot. This is a separate lot that is for sale, so he assumed it was alright.

Ms. Powers stated that there was a huge amount of construction happening.

Mr. Normandeau stated that he didn't know what was going on with the other lot, but he assumed that there was a house being built on the other lot. This would be an incentive to buy the lot.

Ms. Powers asked if there would be two lots on the left hand side. She was under the impression that they would be split up.

Mr. Normandeau stated that the lots were subdivided into two lots, which is reflected on the layout plan. The map and the lot have not been assigned by the City Assessor's Office yet.

Ms. Maher stated that there was a previous application for a dock and a subdivision at Tucker's Cove. At the time, there was a discussion about requiring communal docks. They have an opportunity to enforce this in two waterfront lots. How do they go about that? Is that something they ask for? Any waterfront lot is going to, at some point, want a dock. She asked about putting the dock in a location that is accessible to all.

Mr. Britz stated that that would have to be a decision made by the two owners. The Commission could write a letter to the two property owners indicating that they would like to see that happen.

Ms. McMillan asked if this was the property that they had to approve the subdivision of two lots. She specifically remembers requesting that they only put in one dock. She remembers thinking that it would be better that there be only one shared dock between the two lots.

Ms. Powers stated that she remembered that Ms. McMillan had also asked for minimum roads.

Ms. McMillan stated that she requested that because she foresaw the space needing the docks.

Mr. Normandeau stated that it is predictable to think that they would expand.

Ms. Maher asked about the location of the dock. Is there anything special about this location?

Mr. Normandeau stated that the location was the usual and the shortest for that location. The rest of the area is grass. There is actually a float onshore sticking up out of this site right now. It has been there for a long, long time. As long as he meets the marsh requirements, he is comfortable with meeting the setback requirements. He tries to go over the least grass as possible.

Ms. Maher asked about the second photograph.

Mr. Normandeau stated that if they are looking towards the road there is a curve in.

Ms. Maher asked if there was less coverage of the marsh areas.

Mr. Normandeau stated that that was correct.

Mr. Miller stated that there was a wetland on the border of the two properties which is over 1/2 an acre.

Mr. Normandeau stated that that is not delineated. He did not walk out there. It is a wetland, and he assumes that is based on soils, but it is not a cattail marsh or anything.

Ms. Maher stated that it was full this summer.

Chairman Cormier stated that they needed a site permit to do this, but if they do it properly, he asked what kind of impact this would have on the wetlands. What are they going to gain by having one dock as opposed to two docks? He's assuming that if it's done right then it will have very minimal impact.

Mr. Normandeau stated that he didn't think that docks had very much environmental impact in general. It really boils down to a view of aesthetics.

Chairman Cormier stated that they have to deal with what is in front of them today. They cannot backtrack and ask this person to build only one dock. He has tried to negotiate to have people construct single docks for multiple properties and it hasn't worked in the past. There are a lot of reasons why people don't want to do it, and they are not required to. Some people don't feel like filing paperwork or going through the steps and, seeing all the hassles involved, he can't blame them. The lots are worth more if they have their own docks.

Ms. Powers asked if they updated the wetland mapping. Does that make any difference in this case?

Mr. Britz stated that there was a new wetland map.

Mr. Horrigan asked about the layout of the lot and the tax map. He can't figure out where they would locate the house on the map. It almost looks like a communal pier.

Mr. Britz stated that the lots probably wouldn't have been sold had they not been buildable. Even without a house, they could still build a dock.

Mr. Normandeau stated that many times they have built a dock on non buildable land. The house on Ridges Court is an example of this. They have the house on one lot and the dock down on the water on another lot. The street separates the two lots.

Ms. Maher stated that she disagrees about the impact of multiple docks. She thinks that if there is any way that they can address this in a long term fashion, they should. They need to pay attention to this and have joint docks here. She felt there needs to be sunlight under the dock.

Mr. Miller asked where the authority lied. He felt it was more with the Planning Board. Mr. Britz did not feel that they had the authority either.

Ms. Powers asked why they would vote on it then. This has happened before. Why would they vote on something over which they have no authority?

Chairman Cormier stated that it was so they could make sure it was done right.

Mr. Miller stated that they may have suggestions to improve it. There is a lot of frustration on a lot of issues. Unless it is in the Ordinance, they are an advisory committee. The Planning Board is really the decider.

Mr. Britz stated that they were complying with the law and making sure that they are acting in accordance with the regulations of the City and the State. They would have to look at City ordinance changes in order to decide on a single or multiple dock.

Mr. Normandeau stated that before it was subdivided, he suggested putting a conservation easement on the property. Mr. Clark was approached by TPL, but they didn't have enough money. They tried to get him to wait while they raised the funds. It is too bad that the City didn't buy the entire lot.

Mr. Horrigan has no problem with Mr. Normandeau's presentation on the pier as it appears to comply with State guidelines. As he understands it, they are making recommendations to the State and the Planning Board and on the Conditional Use. He wants to recommend that they build a communal dock.

Chairman Cormier explained the State guidelines. They are only recommending favorably or negatively to the State on this application. A Conditional Use application goes to the Planning Board. If he wanted to make a recommendation that they could send a letter. However, they need to vote on this issue that is before them today.

Mr. Wazlaw stated that they could give a recommendation to the State Wetlands, but they can't do anything about the size and length of the pier. They are stuck if they play by the rules and regulations. A comment to Mr. Britz would be helpful, but is a separate issue.

Ms. Powers asked what the regulations were.

Chairman Cormier stated there were standard guidelines about the height-width ratio, decking, distance to abutters, number of slips, spacing, etc.

Mr. Normandeau stated that they regulate standard guidelines, height to width ratio and spacing.

Ms. Powers stated that location isn't really considered.

Chairman Cormier stated that location came in two places which are setbacks and the impact. They need to have the least possible impact on the land. The site that goes across 100' of grass versus 30' should be shorter.

Chairman Cormier noted that the State takes environmental impact into consideration. They will survey the environmental impact of the dock.

Mr. Normandeau stated that they were within the rules that they have, but the rules are terrible and should be done over. There is some logic to the rule such as the height to width ratio to let light under the dock, which has been changed. It used to be the underside of the deck but now it's the underside of the frame. Generally, when he goes across marsh grass, he tries to go down to 4'. The height is more of a visual thing and is for aesthetics. If the dock goes down into the grass it will kill it.

Chairman Cormier called for a motion.

Mr. Wazlaw made a motion for a favorable recommendation, which was seconded by Mr. Miller.

The motion passed unanimously.

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**II. CONDITIONAL USE PERMIT**

- A) 445 Route One By-Pass  
Assessor Map 234, Lot 3

Searay Realty Trust, Owner  
Jack Kimball, Applicant

Steve Lorenzin appeared, representing the owner, Jack Kimball. He indicated that this building is best known as the Griffin Building. Mr. Kimball would like to rebuild a 3 bay garage that is in disrepair and is about to fall down. They see this as an opportunity to rebuild and to utilize better construction technique and methods. They also want to protect the wetlands and use safe materials. It is a nonconforming building in that it does not meet setbacks from lot lines or wetland buffers. He stated that Dr. Lord had evaluated the impact on the environment. They plan to demolish the building and then rebuild it which will improve the use, safety and impact on wetlands. If the garage is used as a garage as intended, there is an obvious risk of gas or oil leaks. Currently, it is a concrete slab with rotting and deteriorating wood sills. The leakage would go directly into the wetlands. If they rebuild, they would like to install a curb to prevent this. Additionally, it was suggested that they put a gutter system on the new garage and utilize a trenching system to reduce any impact on that.

Mr. Wazlaw asked if they were going to build within the existing footprint and if they were going to deal with runoff.

Mr. Lorenzin stated they would be building entirely within the same footprint. The roof that is there now cannot even handle the runoff.

Mr. Horrigan stated that there was currently run off from the parking lot to the driveway. Will the proposed curb handle that as well?

Mr. Miller wasn't asking about a parking permit. That raises other issues they do not want to get into. Adding a curb will basically just ensure that the garage's walls do not sit in the ground, but rather on a concrete wall and it should work. He felt the issue of water runoff is important.

Dr. Lord stated that they will upgrade the parking lot in the future and suggested that they just deal with the roofing at this point.

Chairman Cormier stated that the Planning Department recommended that they tie floor drains into the sewer system. Is he aware of that?

Mr. Lorenzin stated that he wasn't.

Mr. Britz read the memo.

Mr. Miller noted that it would not be a problem to tie them in, since the sewer system runs along the garage.

Mr. Britz stated that it would also catch anything from the cars and go in the sewer instead of the storm drain.

Mr. Kimball stated that they would need one for the drain anyway.

Ms. Powers asked if they would be using orange construction fencing.

Mr. Lorenzin stated that they would be using that. They will most likely use two types of fencing. Construction equipment is like water; it expands and fills the limit of which they want to control. They will make sure that nothing gets into the wetlands.

Mr. Britz recommends making that a stipulation.

Ms. Powers stated that the stipulation could be to follow both sets of regulations.

Mr. Britz stated that they should just spell it all out when they make the recommendation so that the Planning Board knows specifically what to ask for.

Mr. Lorenzin stated that he has no problem with following the regulations.

Ms. Powers asked if the suggestion was the same as the Planning Board memo.

Mr. Britz stated that they were two separate issues. One could be arranged that would prevent construction vehicles from entering the wetland.

Ms. Maher stated that she wanted to take this time to remark on how the Commission is unhappy with the sheet flow that comes across Route One. This hasn't been touched since the 1950's, when it was built. She hopes they are sensitive to their concerns and consider this when adding their drainage system.

Mr. Kimball stated that he would be doing more paving and curbing in the future, but sees this as a good recommendation.

Mr. Lorenzin stated there are a number of things that need to be done to the property, but they need the garage now. They will come back for that at a later time. That is why they brought Dr. Lord to the meeting.

Chairman Cormier stated that there are two conditions attached: the construction fence and the garage drainage to the sewer.

Mr. Miller made a motion to recommend approval with those two conditions, which Ms. Powers seconded.

Mr. Miller stated that as they move forward with development plans, they should consult UNH because they have tons of good information on stormwater drainage systems.

Ms. McMillan stated that this was also in the Hodgkins Brook watershed. They should touch base with the coordinator for feedback. They could get good publicity for doing something positive.

The motion passed unanimously with the following stipulations:

- 1) That a garage floor drain be installed that is connected directly to City sewer, and,
- 2) That orange construction fencing and/or an erosion and sediment control barrier be placed in such a way as to prevent construction vehicles from encroaching on the buffer any further than is necessary for completion of the project.

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**III. OTHER BUSINESS**

A) NROC (Natural Resource Outreach Coalition) Program Description;

Mr. Miller spoke regarding the Natural Resource Outreach Coalition. He presented a power point presentation and was assisted by Barbara McMillan. The Commission discussed ways to approach the City to support the program. They need to get City and other Boards interested in this program.

B) PDA Wetlands

Peter Britz advised the Commission that he needed to get a letter back to Pease. The PDA is happy to come and present their plans to the Commission, but they need direction. Mr. Britz had four items: explanation of how the buffer width came to be; description of how the PDA would adopt new regulations, how an applicant would see the described setbacks, what kind of flexibility there would be between the two buffer options and what level of involvement is expected from the City on this. He plans to ask them to address those four things with discussion afterwards.

Mr. Miller asked if he had any feedback from the Planning Board.

Mr. Britz stated that he presented the same thing to the Planning Board and they requested feedback from the Commission.

Chairman Cormier asked if prime wetlands were one of the things they brought up. Newington was concerned with that designation.

Mr. Britz stated that the PDA was fighting Newington on the prime wetland designation.

Chairman Cormier asked if that was a separate issue.

Mr. Britz stated that was how Newington got the Conservation Commission involved.

Mr. Miller asked if they wanted to broach the issue of stormwater treatment.

Mr. Britz would like to just talk about the issues he discussed with the Planning Board.

Mr. Miller agreed that it might complicate what this is all about and it should be a separate issue.

Mr. Horrigan stated that he wanted to ask them why they don't agree with the Commission's guidelines and thought that could be an item.

Mr. Britz stated that the PDA has responded to this in numerous ways. Their response was to hire Jim Gove. Their regulations will always be less than the Commissions'.

Ms. Blanchard stated that she was on the PDA Commission when she started, and the purpose of the groups were to work together. They didn't want anyone to create their own community that they

didn't have jurisdiction over. She stated that she wants a discussion on how to handle communal docks. She would like to add that discussion to next month's agenda. They might want to work with a legislative delegation on this issue.

Ms. Powers asked if this was under the umbrella of zoning.

Mr. Britz stated that it was if the State authorized it.

Ms. Blanchard is astounded at the number of docks.

Ms. Powers stated that there was a big push to leave the docks in all year long.

Mr. Wazlaw stated that there were new materials being used for the docks.

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**VI. ADJOURNMENT**

At 5:15 p.m., a motion was made and seconded to adjourn to the next regularly scheduled meeting.

Respectfully submitted,

Danielle Auger  
Acting Conservation Commission Secretary

These minutes were approved at the Conservation Commission meeting on September 13, 2006.