

**REGULAR MEETING
CONSERVATION COMMISSION**

**1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE
CONFERENCE ROOM "A"**

3:30 p.m.

December 13, 2006

MEMBERS PRESENT: Acting Chairman Steve Miller; Members, Allison Tanner
Skye Maher, Barbara McMillan, Brian Wazlaw; and
Alternate Jim Horrigan

MEMBERS ABSENT: Eva Powers, Alternate Mary Ann Blanchard

ALSO PRESENT: Peter Britz, Environmental Planner

I. CONDITIONAL USE PERMITS

- A. 1618 Islington Street
EAB Realty Management, Inc., owner
Assessor Map 241, Lot 10

Attorney Peter Loughlin and Mr. Steve Riker of NH Soils spoke to the application. Attorney Loughlin stated that the owners of the property, the Beevers, have owned the property for over sixty years. They would like to reconfigure the original homestead. At present, there is a single family home, a barn, and a shed on the lot. The shed would be removed. The barn is 75 feet from the wetlands. That would be pulled back and a garage would be constructed. The proposed garage would be 79 feet from the wetlands. The total amount of structure in the wetland buffer would be reduced by 40 square feet. There would be a driveway partially in the buffer. The surface of the driveway has not been decided on. Attorney Loughlin said the applicant would be amendable to whatever would be appropriate.

Mr. Steve Riker stated that he performed the wetland function/values evaluation for the applicant. He focused on the Appendix A form in the booklet. The form breaks down the thirteen function/values which were assessed on the wetland associated with the site. He said that there are some capable functions of the wetland that are listed in Appendix A - ground water recharge/discharge, flood flow alterations, sediment/toxicant retention, nutrient removal, production export, and wildlife habitat. He pointed out the summary section of the form that stated his opinion on the current conditions. Mr. Riker added that the report contains more detailed information than the form.

Attorney Loughlin asked Mr. Riker that with the wetland values listed in Appendix A, did he see this project having any adverse impact on the wetland values. Mr. Riker replied no.

Attorney Loughlin pointed out an exhibit that he submitted prior to the meeting. On one side of the submittal was a blow up of the tax map and on the other side a photo. The purpose of it was to show the three structures on the Beevers property as well as the adjacent property.

Attorney Loughlin stated that their proposal is an example of the ordinance working. He said the applicant would like to be able to move the building further from Islington Street and further from his neighbor and that cannot be done with the buffer. Attorney Loughlin stated that the proposal balances the purposes of the ordinance and the goal of the owner rather well. He read a quote from the Simplex Technology case that talked about regulations in general. He pointed out that the Conservation Commission weighs each application, looks at the facts, and looks at the ordinance and determines if the ordinance is satisfied. It is a balancing test and he feels that this is a reasonable application.

Ms. Tanner asked Mr. Loughlin if the owner was open to suggestions on what to do with the driveway. She commented that she does not want an increase in impervious surfaces. She stated that her objection to this application would be reduced if they could introduce a good alternative.

Mr. Riker mentioned that possibly an Eco-paver could be used. He said that it is a manufactured stone with a hole in the center of it. The Eco-paver reduces compaction of the soil which would maintain the soils ability to retain run off, treat it and recharge ground water.

Acting Chairman Miller asked Mr. Britz to go over the memorandum he wrote to the Commission. He stated that the buildings balance each other out. There is no reduction in buildings. He said that the driveway is the new impact that the Commission should look at the most. Mr. Britz suggested that the applicant could look at ways to reduce the amount of impervious surface in the buffer or try to come up with some best management practices to reduce the impact. He told the Commission that it is their job to determine what is enough and when is it too much.

Acting Chairman Miller asked about Section 10-609 (A) 3. He wondered if it applied in this case. Attorney Loughlin replied that he talked to Mr. Britz about it and he did not think it applied in this case.

Mr. Horrigan asked about the geological history of the area. He wondered if the other houses in the area are built on fill. Attorney Loughlin replied that at one time Islington Street was relocated and pushed to the north. And so he suspected it was fill. He said he did not think there was fill in the applicant's area.

Acting Chairman Miller asked why the garage was going to be set back. He thought if it was moved a little to the west, more of the proposed driveway could be eliminated and that would remove more of the garage out of the buffer. Attorney Loughlin asked if that would make for a U shaped driveway. Acting Chairman Miller replied yes, it would. Attorney Loughlin commented that the architect thought that would make for a very awkward configuration for a single family home. He added that anything can be done but he felt that what has been proposed is reasonable under the circumstances. In the buffer, they are balancing removal of structure from the buffer. Acting Chairman Miller pointed out that there is a big increase in the non buffer area. He said that he would feel better if they could resolve the driveway and the increased fill surface and the increased runoff into the wetland.

Mr. Ed Beevers stated that they would be going from a family of three to a family of six. His mother-in-law is moving in also. He said they would be adding 1,800 sq. feet.

Ms. Maher made a motion to recommend approval with the consideration that the new driveway be made of pervious material. The motion was seconded by Ms. Tanner.

Ms. Maher stated that she would like it to be a pervious surface. She said she did not think the siltation was going toward the wetland. If there was to be grading there, she would like to see it go away from the wetland. She thought that most of the surfaces that they are proposing would be fine.

Acting Chairman Miller pointed out that there are several alternatives – pervious asphalt, pervious concrete, pavers, and also new technologies that are plastic. He asked if they wanted to leave the choice up to the applicant or did they want to stipulate one.

Attorney Loughlin asked if they could come back to Mr. Britz with their decision and get his approval. Mr. Britz pointed out that they would have to meet the Planning Board’s approval as well.

Ms. McMillan stated that it might make a difference what surface they choose since they are close to the water table. Acting Chairman Miller agreed and said that some of the technologies may not be appropriate due to close proximity to seasonal high water.

Acting Chairman Miller included in the motion that the pervious material be subject to approval by Mr. Britz.

The motion passed by a unanimous vote.

B. 66 Benson Street
Michael Travis, owner
Assessor Map 233, Lot 73

Mr. Shane Carter of Community Investment Properties, and Mike Travis, property owner spoke to the application. Mr. Carter stated that the plans submitted were in regards to a two family structure. He said that they are proposing to preserve and enhance it. It is in the wetland zone. Mr. Carter pointed out that in the memorandum submitted by Mr. Britz, that there will not be an expansion of the footprint of the building or an expansion of impervious surface. He said they are proposing to expand the third unit to provide a handicapped accessible apartment. They felt that they have taken a sensitive approach to the site with regards to their proposal of rain gardens and eco-pavers. The rain gardens and the eco-paver system are going to improve the site conditions in terms of siltation and runoff. He added that they are trying to minimize impact and also enhance the vegetation to protect the existing wetland. He also mentioned that Mr. Steve Riker prepared the functions and values impact assessment. Mr. Carter said they have been very careful in not increasing the impervious surface on the lot.

Acting Chairman Miller asked Mr. Carter to go over the plans with the Commission. He stated that he had some confusion with the plan. He asked where the third unit would be located. Mr. Carter replied that the third unit would be ground level. Mr. Travis added that the third unit would be within the existing footprint. He said the roof extends another 18" beyond the foundation all the way around. He added that the existing porches need foundations under them. The building is in serious disrepair. It was built in 1920 and maintenance had not been kept up.

Mr. Carter pointed out in the plans the existing and proposed front elevations and where the third unit would be located. Acting Chairman Miller asked if they were planning to tear down the building. Mr. Carter replied no. Mr. Travis added that it is a post and beam structure that is in good shape. Mr. Carter said that they have already replaced some of the main structural beams.

Acting Chairman Miller asked if the entire driveway would be eco-pavers. Mr. Carter replied yes. Acting Chairman Miller asked about the space next to the proposed handicapped unit. Mr. Carter replied that it would also be eco-pavers. He said that a certain kind of eco-paver can be laid level to have a nice surface for wheelchair access.

Mr. Travis stated that all of the runoff from the roofs would go into the rain gardens. He said they are shaped like a bowl and are dependent on what type of vegetation is chosen to put in them. They serve as a filter that will improve the conditions of the wetlands. Acting Chairman Miller asked if there were five rain gardens proposed. Mr. Travis replied yes. Mr. Carter added that they might put in a sixth one that would be to the south side of the garage. He said it would be outside of the wetland buffer but it was close enough that it would impact the wetlands in a positive way.

Mr. Wazlaw asked about the location of the driveway. Mr. Carter replied that the driveway would go up to a berm where there will be two parking spaces. Mr. Wazlaw asked if they planned to level the driveway and how they planned to drain that area. Mr. Carter replied that there is an existing pipe that drains across the street and then down to the wetland. He said that they do not plan to change the grade. There is a slight grade

currently and it is within the parameters for installation of the eco-pavers. He added that the installation of eco-pavers will improve the runoff from the site.

Mr. Horrigan stated that he felt the houses on Benson Street were built on fill. He said he felt that the lot was fairly soggy. He wondered if they had done any soil tests to determine what is underneath. Mr. Carter reiterated that the installation of the eco-pavers would improve the ability of the existing soil conditions to absorb water. He added that they would be using about 10" of crushed stone.

Mr. Britz asked about the fire escapes and the pavement around them. Mr. Carter said that that surface would be a pervious surface. He added that the fire escape would have a roof over it. The rear stairs would be of wood and would be open with no roof.

Ms. McMillan asked Mr. Britz for his comments about the proposed project. He said that his largest concern with the application is that the proposal is for a three family unit going into a single family zone. It will have to get Board of Adjustment approval first. He felt the Commission should not spend too much time discussing it in case it does not get final approval. He also said that there is a lot of new pervious pavement. He said the Commission needs to ask themselves when is enough enough. Mr. Britz thought the rain gardens and the eco-pavers were a good idea. He added that there is concern that they are in the wetland buffer, unlike their last application where they were on the edge of the wetland buffer. He said it seems like a more heavily developed site and it hasn't been approved by the Board of Adjustment.

Mr. Carter stated that there was 3,530 sq. feet of new pervious surface being proposed. Mr. Britz replied that it seems like a stretch to say that they will not be impacting the wetlands. He said a neighbor called him with concerns to the impact on the wildlife habitat in the area. Mr. Britz stated that he did not feel there was enough information submitted to recommend approval as well as the fact that it still needs approval from the Board of Adjustment.

Ms. McMillan asked about the parking spaces. She wondered if they could be moved more to the right. Mr. Carter said they could be moved. Ms. McMillan said then they would not have to cut any trees. Mr. Carter replied that they would have to cut the spruce tree to accommodate the handicapped space.

Ms. McMillan asked if the rain gardens would be installed in undisturbed sites. Mr. Carter replied yes, however, if they preferred to leave it grass, they would do that. He felt that the rain gardens would positively affect the functions and values of the wetlands as they currently exist. He also added that the rain gardens would be placed about where the silt fence is currently.

Ms. McMillan asked how the rain gardens would be maintained. Mr. Carter replied that the condominium association would have that responsibility. Mr. Travis added that the first three years are the most critical in keeping it weeded. After that, they become fairly self sufficient. Mr. Travis said that currently the next door neighbor maintains the yard.

Mr. Horrigan stated that he thought the water drained across Benson Street and down to the wetlands. He thought that the rain garden in that location would be crucial. Mr. Travis replied that the rain gardens will address the roof runoff.

Ms. Tanner stated that she felt they should not get too involved with the proposal since it has not received Board of Adjustment approval yet.

Ms. Beverly Stone, an abutter who lives at 65 Benson Street voiced her concern with the proposal. She said that she is concerned about the paving. There are a lot of animals that live in the area. It is a natural setting for wildlife. She said she did not know how the eco-pavers would affect the nesting pattern of the pond turtles that live in the area. She said that the turtles cross the street and nest in the applicant's yard. She added that she is always finding baby turtles stuck in the road so she picks them up and returns them to the pond. She also added that water comes down Fletcher Street and she did not feel that 10" of crushed stone would work to alleviate the water problem. She asked if a hydric testing of the soil was done. Ms. Stone also mentioned the use of concrete that will be in the wetland buffer zone. She said that she realizes that this project will increase her property value but that it is important to watch out for the animals.

Mr. Travis stated that he did not know that there were turtles and that they were nesting in his yard. He thought that with the proposed changes it would be easier for the turtles to travel. Ms. Stone said that heat will radiate up from the pavement and kill them. Mr. Travis felt that Eco-pavers are not like regular pavement. He also said that the rain gardens would provide a good environment for the turtles.

Acting Chairman Miller asked Mr. Britz about the possibility of tabling the application. Mr. Britz replied that the typical process is to go before the Conservation Commission then the Board of Adjustment. He said if the Commission tabled it, it would go to the Board of Adjustment and then back to the Conservation Commission if it is approved. Then after reviewed by the Conservation Commission, it would go to the Planning Board.

Mr. Carter stated that they have taken into account the environmental sensitivity of the site and have utilized best management practices and have improved the site in terms of the function and values impact assessment.

Acting Chairman Miller asked that if they went ahead and approved as presented and it did not get approval for three units, then the impact would be less. Mr. Carter replied yes.

Mr. Horrigan stated that based on his experience serving on the Board of Adjustment, it can be frustrating to not get any feedback on an issue like this one. He said there are many variables to take into account.

Ms. Tanner asked if was possible to write a letter to the Board of Adjustment stating the Commission's concerns, table the application, and not take action on it until the Board of

Adjustment decides. She felt Ms. McMillan's suggestion about moving the parking spaces should be included in that letter. Mr. Travis said he would like to know what the Commission's concerns were. Ms. Tanner replied that she thinks that the site is being over utilized and is right at the edge of a wetland. She thought the amount of traffic generated by three families is significantly different than two families. Ms. Tanner said she was also concerned about the amount of pavement.

Mr. Horrigan had a question about the condition of the soil. He said that he has his doubts about the suitability of the eco-pavers on this site. He would like more information. Mr. Britz suggested that tabling the application would allow the applicant more time to gather that information. He said that all of their concerns could be aired to the Board of Adjustment and have them come back with a plan that might meet their needs and then vote on it. Mr. Britz said that it was up to them.

Mr. Travis asked if they looked at what was written in the functions and values impact assessment as not having any value. He said that the report is saying that what they have proposed will improve the wetland.

Mr. Britz said that often an independent consultant is hired to provide a second opinion. He said that this can be requested through the Rockingham County Conservation District.

Mr. Wazlaw listed the concerns voiced by the Commission – the condition of the soil, two units vs. three units, and the shifting of the driveway plan. He thought those were the major concerns. Acting Chairman Miller added to that list the water drainage plan from the roof to the rain gardens and if there was going to be a sub drain in the system. Mr. Carter replied that there is a gutter system and the water is sent directly into the rain gardens. He said that they are self-supporting. He added that the eco-paver system is all crushed stone. Mr. Carter said that in regards to the soil conditions, he did not see how they would be doing anything but improving the drainage of water.

Ms. McMillan asked if they could incorporate into their response that they consult with someone who understands the turtle habitat. Mr. Britz said that if they want more information about the habitat, they could request that an independent person look at it.

Mr. Travis stated that he was open to any suggestions that would preserve the integrity of wildlife in the area. He said that he is trying to generate a more natural environment for the animals. He felt that they have done a lot to enhance the integrity of the area.

Mr. Britz said that he did not want the applicant to get the idea that they did not think they were doing the right things. He said that it is the uncertainty of the new technologies and how they work together that concerns him. He felt that maybe the best way to address it was to hire an independent consultant to look at the entire picture.

Acting Chairman Miller agreed with Mr. Britz.

Ms. Maher made a motion to table the application and write a letter to the Board of Adjustment stating the following concerns:

- 1) Condition of the soil
- 2) Land use, two units or three units
- 3) Wildlife habitats
- 4) Parking plan
- 5) Hire an independent consultant to study soil, rain gardens, eco-pavers, and wildlife habitat.

Ms. Maher said that the letter should indicate that the Commission has concerns and wants to reexamine it. She added that her concern with the property is that it looks like a wetland to her and not a buffer. She said that the recent conditions make it look like a wetland. Mr. Travis stated that this year has made every property look like a wetland.

Ms. Maher stated that she liked what they were doing. She said they just needed more information.

Mr. Wazlaw said that there are a lot of positives like the rain gardens and eco-pavers. He continued that his concern is the closeness to the wetland and whether it will be a two unit or a three unit building.

Ms. Maher asked about the water table. She said that if the water table is too high, the pavers are not going to function.

Mr. Wazlaw asked what the elevation of the driveway was in relation to the wetland. Mr. Carter replied a minimum of two feet and then goes up to about four feet. Mr. Travis added that the back end of the existing structure is below grade and there is no standing water.

Mr. Carter pointed out that page C1 had elevations. He stated that they have designed this as if it were to be approved for three units. Anything less would lessen the other installations.

Acting Chairman Miller said that if the approval is for two units, the Commission would like to see plans for that.

Mr. Britz asked for clarification about the letter to the Board of Adjustment. Ms. Maher said the letter should accompany the Board of Adjustment application. Acting Chairman Miller suggested that if they receive Board of Adjustment approval, the applicant should come back to the Commission with the following information – the soil condition, the reliability of the rain gardens and the eco-pavers, and a report from an independent consultant regarding the wildlife habitat.

Ms. Maher said that another concern she has is that there is only 2 feet of elevation and she is not sure how that will work with the pavers. Acting Chairman Miller added that they would like to know what happens with the water in a high rain event.

Mr. Britz stated that the next time the applicant comes back to the Commission, they are going to want information as to how well the pavers will work at the current elevations.

Mr. Carter asked what specific information they would like to know to prove that it will work. Ms. Maher said that she would like to know the cross section of the driveway from the water table to the surface of the eco-paver.

Mr. Travis asked how they want them to address the turtles. Mr. Britz replied that an independent consultant should be hired to study the habitat.

The motion to table the application and write a letter to the Board of Adjustment stating the following concerns passed by a unanimous vote.

- 1) Condition of the soil
- 2) Land use, two units or three units
- 3) Wildlife habitats
- 4) Parking plan
- 5) Hire independent consultant to study soil, rain gardens, eco-pavers, and wildlife habitat.

Ms. Tanner left the meeting at this point because of prior commitments.

C. 1800 Woodbury Avenue (amendment)
 SGB & RSB Ventures, LLC, owner
 Assessor Map 239, Lot 7-3

Mr. Dennis Moulton of AMES-MS spoke to the application. He stated that this was the Gerber Dental site and had been previously approved. The previous approval stipulated that two parking spaces in a particular area be removed. He said that the client would like to keep those two spaces and remove one parking space in one area and another parking space in another area. Also as part of the application, they are asking to relocate the dumpster for easier pick up and removal of trash. Overall, the net change is a slight reduction by about 6 sq. feet.

Ms. Maher stated that she did not want to vote for the application. She reminded the Commission that the last time they discussed the project; they had concerns about grocery carts and trash in the wetlands, erosion in the back of the building with drain pipes running down and eroding the berm. She said that the applicant said it would be

taken care of it immediately. She said that nothing as been done so far except for some topdressing that does not cover up the erosion in the back of the building.

Mr. Moulton stated that he understands their concerns. He suggested that they might want to address their concerns to the Code Enforcement officer. He said that he would report the concerns to his client but he had limited power.

Mr. Britz suggested that if they recommend approval, it could be subject to the cleaning up of the site before the next Planning Board meeting which would be a little over a week away.

Mr. Wazlaw pointed out that he thought they reviewed this application last March.

Mr. Horrigan made a motion to recommend approval subject to completion of the conditions of the original approval. Acting Chairman Miller said that he would review the record to clarify the previous conditions stipulated in the first approval. The motion was seconded by Ms. McMillan. The motion passed by a 4-1 vote with Ms. Maher abstaining.

D. 155 Borthwick Avenue (amendment)
Millenium Borthwick, LLC, owner
Assessor Map 259, Lot 14-01

Ms. Adele Fiorillo of NHSC, Inc. and Mr. Gordon Leedy of VHB, Inc. spoke to the application. She stated that the Commission was familiar with the site as they were before them last month. She said that they are before them again with changes to the plan.

Mr. Leedy stated they are proposing a reduction in both the numbers of spaces proposed as well as the area of new pavement in the buffer impact. In the prior application, they were proposing 11,000 sq. feet of new pavement. Now they are proposing 8,000 square feet of new pavement. They are also proposing that all of the new pavement be pervious asphalt. He said they have lots of room between the surface and the ground water in the area but the soils are not the best. They are replacing the semi permeable lawn area with a semi permeable pavement. They will get treatment through the pavement section and whatever does not go back into the ground will run off into the underdrain system and outlet into the existing retention pond. He said that in addition, they are proposing to take up 5,000 square feet of existing pavement and replace it with pervious pavement. He said that they looked at the conditions on the property and they think the condition of the existing retention basin is good. They are also proposing to extend that sort of treatment the entire perimeter of the sit and it would be a no mow area. Mr. Leedy pointed out that there was an area of existing natural species that they propose to keep as is.

Mr. Leedy stated that the need for the additional parking was due to a change of use from standard office space to medical office space. He pointed out that 68 additional spaces were needed to accommodate that change from a zoning perspective. He said that 43 spaces are proposed to be under the new building. He said he talked with Mr. Tom Cravens who had some concerns about the monitoring wells that are scattered throughout the site. Mr. Leedy showed the Commission the location of those wells on a site map. He stated that they are very willing to work with the City concerning the wells. He mentioned that Mr. Cravens had concerns about catastrophic spills. Mr. Leedy commented that if you have a spill of gasoline or oil, no matter where it is, it is bad. He said that the porous pavement functions like a sand filter. There will be some biodegradation of oils in the soil, but there is an underdrain safety system. They propose to keep that as is.

Ms. Fiorillo stated that the Kane Company does not want the edges of the parking lot to look ragged. They are proposing an offset area from the pavement with natural vegetation coming up to that point. Ms. Fiorillo added that they are also increasing the size of the shrub plantings.

Mr. Leedy pointed out that with porous pavement, sweeping is not recommended. Instead they recommend vacuuming. He added that the porous pavement reduces the amount of salt that needs to be used. He said they may use salt at the entrances but other alternatives for the rest of the area will be explored.

Ms. McMillan asked if they would wait to build this new parking area until the second building is built. Mr. Leedy replied yes.

Ms. Maher asked how many times they have seen plans for this site. Acting Chairman Miller replied that this was the second time. She said that they need to address parking up, instead of parking out. She thought this site was a perfect example. She said that while the current zoning regulations are being addressed, they should be involved in that process. Ms. Maher also stated that they are doing this for a change of use to accommodate a previously approved building that was built for a different use. She said they do not have to provide parking because the owner wants doctors in there. They do not have to build the building. If it is not rentable space, that is not the Commission's problem. She said the Commission's problem is about water quality, not about the rentable space that this owner might build.

Mr. Leedy responded that from a zoning perspective, you need to balance all of the issues. He said it comes down to reasonable use of the property. With respect to water quality, this is the best available technology.

Ms. Maher said that the Commission has not addressed the parking garage issue. She felt they were at a point where they are out of land. She wants the Commission to make some sort of recommendation to the Planning Board.

Mr. Horrigan stated that he was pleased with the changes that they made.

Mr. Horrigan made a motion to recommend approval of the application. The motion was seconded by Ms. Maher.

Ms. McMillan asked if the recommendations from the last meeting would apply to this application as well. Acting Chairman Miller said yes, it could include the cleaning of the catch basins and regular vacuuming.

The motion passed by a unanimous vote.

II. OTHER BUSINESS

PSNH – Update

This item was tabled to the January 10, 2007 meeting.

III. APPROVAL OF MINUTES

November 8, 2006

This item was tabled to the January 10, 2007 meeting.

IV. ADJOURNMENT

At 5:35 p.m., it was moved, seconded, and passed to adjourn the meeting.

Respectfully submitted,

Liz Good
Conservation Commission Secretary

These minutes were approved at the Conservation Commission Meeting on January 10, 2007.