

**MINUTES OF THE  
CONSERVATION COMMISSION MEETING**

**CONFERENCE ROOM "A"**

**3:30 P.M.**

**JANUARY 9, 2008**

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

**MEMBERS ABSENT:** Skye Maher, Richard Adams

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

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Chairman Miller called the meeting to order at 3:30 p.m.

**I. STATE WETLANDS PERMIT APPLICATIONS**

- A. Standard Dredge and Fill Application  
250 Clinton Street  
Assessor Map 159, Lot 9  
Jessie Fiske and Evan Patten, owners

Mr. Glenn Normandeau of Pickering Marine Corporation was present to speak to the application. He explained that the property lies at a dead end corner on the North Mill Pond, directly across from Ricci Supply. He said that the property has a high banking that runs down into the creek. As it gets down to the toe of the bank there is an area of marsh vegetation of various widths. That area then drops off into the mud flats. He pointed out that because of the storm tides; the toe of the bank was eroding above the marsh grass area. He felt that in the very near future, there could be a couple of trees that could fall victim to the eroding. Mr. Normandeau said that there was 80 feet of shoreline and the applicant would like to put a band of rip rap along it. He commented that the applicants would like to get the erosion under control so that they do not lose any more of their property. He explained that all of the work would take place from up on top and that they would stay away from the marsh grass. He felt the work would preserve the bank and would keep the marsh grass from getting buried under soil from the erosion.

Chairman Miller asked if there were any questions for Mr. Normandeau.

Vice Chairman Horrigan stated that he tried to look at the site but found it very treacherous. He asked about the configuration of the hill because it did not look natural to him. He wondered if it was fill. Mr. Normandeau guessed that it was.

Vice Chairman Horrigan asked how much of the erosion was from storm water run off rather than the tidal currents. Mr. Normandeau pointed out that where the slope touches the marsh grass, there was an under cut and that was where the problem was.

Vice Chairman Horrigan asked if it was possible to introduce vegetation that would cover the rip rap over time. Mr. Normandeau replied yes, it was possible.

Mr. Britz asked what size stone he would be using. Mr. Normandeau said that he was considering one foot size stones with bigger sizes mixed in. He said that he would do his best to stabilize it. Mr. Britz wondered how the large stone size would work with the suggested vegetation. Mr. Normandeau replied that if he planted something viney at the top, it would work its way down. Vice Chairman Horrigan suggested that the applicant might want to introduce some low lying shrubs along the crest as well.

Chairman Miller stated that he thought that this was the site where a bridge was proposed across the pond back in the early 1800's.

Chairman Miller pointed out that there is a storm drain on the left side of the house that is piped out toward the pond. He felt it might be a good idea to see if it can be piped all of the way out.

Chairman Miller asked if there were any more questions. Hearing none, he awaited a motion.

Vice Chairman Horrigan made a motion to recommend approval of the application with the recommendation that natural vegetation is introduced to cover the rip rap. Chairman Miller added that it also should be recommended to check drainage from the roof and to find a way to minimize erosion there from. The motion was seconded by Ms. Blanchard. Chairman Miller asked if there was any further discussion. Hearing none, he called for the vote.

The motion to recommend approval with the following recommendations passed by a unanimous (7-0) vote:

- 1) That natural vegetation is introduced to cover the rip rap.
- 2) That drainage from the roof is checked and improved to minimize erosion there from.

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B. Standard Dredge and Fill Application  
 955 Sagamore Road  
 Assessor Map 201, Lot 1  
 Andrew Widen, owner

Mr. Glenn Normandeau of Pickering Marine Corporation presented the application. He explained that this property was next to The Golden Egg Restaurant on Sagamore Creek. He said that the pier has been deteriorating for some time but was still standing and still in use. Mr. Normandeau said that he had talked with Dori Wiggin prior to filing the application so that she could bring him up to date with regards to the property. He said that he knew that there had been issues in the past with this property with regards to excess floats. Ms. Wiggin told him that they would be taking a close look at the plan.

Mr. Normandeau showed the Commission an aerial photo of the property taken in 1962. He explained that the existing floats that are left will stay exactly as they are and the pier would be brought back to a solid structure.

Mr. Britz stated that the City and State have worked together on removing a number of floats up front and so he thought the applicant was now in compliance. Mr. Normandeau explained that a permit was not required prior to 1967 so the 1962 aerial photo was proof that the structure was already there. He thought it could be considered legally grandfathered.

Chairman Miller asked if there were any questions for Mr. Normandeau.

Vice Chairman Horrigan thought that the legality of the current size of the dock had been challenged by the City Building Inspector. Mr. Normandeau thought that the number of floats was the issue. Vice Chairman Horrigan wanted to make sure that the Commission did not approve something that would be challenged. Mr. Normandeau said that he would only be dealing with the fixed portion of the pier.

Mr. Wazlaw asked if it would look the same when finished. Mr. Normandeau replied yes, that it would be all timber and would look substantially the same.

Vice Chairman Horrigan asked that if the Commission approves the pier and then the State says the floats are too big, can the floats be modified with the new pier. Mr. Normandeau replied yes. He said that he felt the issue with the State was the number of floats. Mr. Britz said that he would verify the situation with the City's legal department.

Mr. Normandeau explained that the applicant had old floats that he removed and had new replacements built but he added more pieces to them which created the problem.

Ms. McMillan asked about the calculations regarding the number of feet of floats in relation to the number of slips. Mr. Normandeau explained that there was a rule relating to slips - 75 feet for the first two slips and 25 feet for every one thereafter. He pointed out that if the floats are grandfathered then the rule would not apply. He added that the second part of that rule was that it was applicable to residential docks only. He said that his client has a waterfront business use and rents the slips out. Mr. Britz stated that he understood Ms. McMillan's concern and would verify that the numbers do not exceed the limits.

Chairman Miller asked if there were any more questions for Mr. Normandeau. Hearing none, he awaited a motion.

Vice Chairman Horrigan made a motion to recommend approval of the application with the following statement:

The Commission does not make any judgment, either implicitly or explicitly, as to the legality of the current size of the floats.

The motion was seconded by Mr. Wazlaw. Chairman Miller asked for discussion.

Vice Chairman Horrigan stated that while he was in favor of the dock he still had concerns about docks filling up the shoreline especially the docks that have no public benefit. He pointed out that this one clearly has public benefit as it was in a commercial marine zone and the dock services a business which is available to the public. He felt it was an ideal dock.

Hearing no other discussion, Chairman Miller called for the vote. The motion to recommend approval of the application with the following statement passed by a 6-0 vote with Ms. McMillan abstaining:

The Commission does not make any judgment, either implicitly or explicitly, as to the legality of the current size of the floats.

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**II. OTHER BUSINESS**

Chairman Miller explained that Mr. Normandeau brought with him to the meeting a Permit By Notification application and asked if the Commission could review it. Although it was not on the agenda, the Commission agreed to review it.

Mr. Normandeau stated that the application concerned the property of Mr. Steve Barndollar of 120 Ridges Court. He said that on the property was a boathouse. He explained that out at the marsh edge, there were old timbers that suggest that there may have been a marine railway that went right into the boathouse.

Mr. Normandeau said that the building was roughly a 32 1/2' by 20 1/2' one story structure on posts. He did not know the age of the structure. He told the Commission that the left hand side of the north side of the building had sunk and the entire building had twisted. He explained that they would want to get under the structure and put new posts in to support it. They would accomplish that by jacking it up and placing cribbing underneath, replace the timbers and drop it back down. He added that he anticipated no work outside of the footprint. The chimney would be removed and would not be replaced.

Ms. Tanner asked what the building was used for. Mr. Normandeau said it was used for storage.

Ms. Powers noted that the abutters were only notified of the project today. She said she would like to postpone review of the project until the abutters have time to take a look at the plans. Mr. Normandeau explained how the process worked. He said that once the Commission approves the application and signs it, he submits it to the City Clerk. If abutters have not responded with any questions or concerns with 10 days of submitting the application to the City, he can go ahead and begin work.

Vice Chairman Horrigan stated that he, too, would like to postpone it and discuss it at next month's meeting because he was nervous about doing anything in that neighborhood without some opportunity for the neighbors to come forward with their views if they wished. He

questioned whether Mr. Vandermark was the only abutter. He added that in that neighborhood they all consider themselves abutters. Mr. Normandeau explained that he followed the State definition of an abutter. Vice Chairman Horrigan said that the City has a much more liberal definition of an abutter.

Mr. Normandeau indicated that he was fine with waiting until next month. He said that he would call the owner and let him know that members of the Commission might be stopping by to look at the project.

Mr. Britz asked for a final clarification of the project. He asked if there would just be footings going in, and no pilings. Mr. Normandeau said that was correct. He explained that they cannot move the building so they plan to lift it and work under it. Mr. Britz asked if once it was finished would it be the same elevation. Mr. Normandeau said that it might be a little bit higher in order to keep the floor of the boathouse from getting wet.

Chairman Miller stated the application would be placed on the February 13, 2008 meeting for additional review.

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Review of draft ordinance revisions

Chairman Miller stated that the Commission was asked to review the latest draft of the document. He explained that the document would be forward to Rick Taintor, the City's Zoning Ordinance Consultant when complete. He will review it and make the changes to the new ordinance draft. The draft would then be reviewed by the Planning Board.

Mr. Wazlaw asked where the vernal pool information would go in the new ordinance. He felt it was important to know where it would go. Mr. Britz said that he thought Mr. Taintor could provide the guidance as to where it should go. Mr. Wazlaw asked if Mr. Taintor would give the Commission a draft to review. Mr. Britz replied that he thought so but he also thought he would attend a Commission meeting to review the draft with the Commission.

Chairman Miller asked Mr. Britz what the process would be. Mr. Britz explained that Mr. Taintor would look at each section and incorporate the suggested changes if possible into the draft ordinance. He would give the draft to the Commission for their review. He said that after that, they would probably have a joint work session with the Planning Board to review the changes and get their approval. The Planning Board would then recommend the changes to the City Council. He said that the City Council would give the final approval.

Chairman Miller asked when the best time for public input was. Mr. Britz replied that the Planning Board would have public hearings once they had a final draft. He said that he did not know how far out that was. Chairman Miller commented that he was glad to see that the new zoning ordinance was one of the first priorities of Mayor Ferrini and the new City Council.

Mr. Britz informed the Commission that there would be a public hearing on Monday, January 14 for a Coastal Zone Management grant to conduct a natural resource inventory for the City. He explained that in order to apply for the grant, a public hearing had to be held. Mr. Wazlaw asked what the timeline would be. Mr. Britz said that if they received the grant they would start in the summer and it would be a two year process. It would look at upland habitat and vernal pools.

Ms. Blanchard left at this point in the meeting.

Chairman Miller allowed input from a group of individuals who identified themselves as the Friends of Sagamore Creek Land. He explained to the group that the Conservation Commission had spent a great deal of time researching and working on the proposed changes.

Ms. Sarah Hamill, a member of the group, stated that one of their concerns was the buffer zone. She said that they felt that the 100 foot buffer zone was not adequate and that a buffer of 250 feet would be better. Chairman Miller explained that the Commission had quite a bit of discussion on the buffer and felt that the 100 buffer was best to balance a variety of other needs. Ms. Tanner pointed out that it took a long time to get the 100 foot buffer established. Mr. Wazlaw felt it would be a hard sell to ask for a buffer larger than 100 feet.

Ms. Hamill asked if she could have a copy of the Commission's working draft. Chairman Miller explained that it was still in draft form and was not available yet for public viewing. Mr. Britz added that things could change between now and when the final draft would be presented to the Planning Board.

Chairman Miller encouraged the group to participate in the Planning Board and City Council public hearings and to bring forth any information that they felt was relevant and important to the process.

An unidentified group member asked if the Commission had gathered any input from the public up to this point. Chairman Miller explained that there has been input from the Commission as well as quite a bit of research. He explained that the Conservation Commission was an advisory group to the Planning Board and that public input was not a function of the Commission, although they have always welcomed it. He added that they were not required to hold public hearings or hear public input.

Ms. Tanner explained that the Commission has jurisdiction over wetlands only. Ms. Hamill asked what would happen if there was a violation. Mr. Britz explained that the Commission was not the enforcing body, that it would probably be the City attorney.

Vice Chairman Horrigan explained that vernal pools were not currently in the zoning ordinance and so the Commission was trying to get them included. He added that they are hoping to define it as a type of wetlands. He explained that vernal pools rarely exist alone and that many overlap. So any buffer zone would provide quite a bit of protection.

Chairman Miller stated that he appreciated the input from the Friends of Sagamore Creek Land. At this point in the meeting Chairman Miller closed the public comment portion of the meeting.

He encouraged them to bring any and all concerns to the Planning Board public hearings. Mr. Britz assured them that there would be plenty of time to review the final draft when it is finished. Ms. Tanner stated that it was very supportive of the group to want to be involved in this process. It would be advantageous to have community support.

Ms. Powers told the group that all of the minutes of the Conservation Commission meetings were available online.

Chairman Miller explained to the group that what the Commission was working on was a working draft of their suggested changes but that there was no guarantee that what the Commission suggests will be approved.

Chairman Miller asked the Commission for their comments to the summary document that would be given to Mr. Taintor along with the appropriate attachments.

Ms. Powers asked about vernal pools that were manmade. Mr. Britz felt a vernal pool was a vernal pool. Ms. Powers thought that maybe that should be clarified in the ordinance.

Ms. Powers suggested that the word “emergency” in the tree ordinance section should be defined to avoid different interpretations.

Vice Chairman Horrigan asked for clarification as to what definition of a vernal pool the Commission was recommending. Chairman Miller said that the definition they were proposing for the new ordinance was the one that Mr. Wazlaw recommended. Vice Chairman Horrigan explained that the Department of Environmental Sciences was drafting a vernal pool statement and he felt the Commission’s definition was much better than the one DES would come out with. Mr. Wazlaw thought it was important for Mr. Taintor to know that DES was going to draft a statement on vernal pools. Mr. Britz pointed out that they might not have a choice of definitions because the state statute might say that you have to adopt their definition like they do with wetlands.

Ms. Powers stated that the storm water recommendations from the Hodgson Brook Advisory Board did not quite reconcile with the storm water Attachment C. She said that the setbacks for the Shoreland Protection Act were different from the Hodgson Brooks. Mr. Britz asked if Ms. Powers thought there should be the same setbacks for fresh water as well as salt water. Ms. Powers thought yes, they should be. Chairman Miller stated that he did not think the setbacks would ever match up exactly and if they did it would lessen the protection of the City’s wetlands. Ms. Powers said that it would be important to review the final draft very carefully.

Ms. McMillan asked if the 5<sup>th</sup> bullet under Shoreland Regulations could be removed. She felt it was misleading and confusing and did not need to be there.

Ms. McMillan stated that wording on storm water maintenance should be included. It was recommended to add an additional bulleted item under Storm Water Regulation that read “management/maintenance of storm water best management practices will be insured over the long term.”

Chairman Miller said that the edits would be made and the final draft would be given to Mr. Taintor.

**III. APPROVAL OF MINUTES**

December 12, 2007

It was moved, seconded, and passed unanimously to approve the minutes as presented.

**IV. ADJOURNMENT**

At 5:20 p.m., it was moved, seconded, and passed unanimously to adjourn the meeting.

Respectfully submitted,

Liz Good  
Conservation Commission Secretary

These minutes were approved at the Conservation Commission meeting on February 13, 2008.