

**MINUTES
CONSERVATION COMMISSION**

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

3:30 P.M.

NOVEMBER 13, 2013

MEMBERS PRESENT: Chairman Steve Miller; Vice Chairman Mary Ann Blanchard;
Members Allison Tanner, Barbara McMillan, Elissa Hill Stone,
Peter Vandermark

MEMBERS ABSENT: Alternates Shelley Saunders, Paul Ambrose

ALSO PRESENT: Peter Britz, Environmental Planner

.....

I. CONDITIONAL USE PERMIT APPLICATIONS (OLD BUSINESS)

1. Off Spinney Road and Middle Road
Frances T. Sanderson Revocable Trust and Lynn J. Sanderson Revocable Trust, owners
Spinney Road **Request To Postpone**
Assessor Map 167 & 170, Lots 5 & 24
(This item was postponed at the October 9, 2013 meeting to the November 13, 2013 meeting.)

Vice Chair Blanchard made a motion to postpone the application to the December 11, 2013 meeting. Ms. Tanner seconded the motion.

The motion to postpone the application passed by a unanimous (6-0) vote.

2. Between Islington Street and Borthwick Avenue
Borthwick For **Request To Postpone**
Assessor Map 233, Lots 223 & 13
Assessor Map 241, Lot 25
(This item was postponed at the October 9, 2013 meeting to the November 13, 2013 meeting.)

Ms. McMillan made a motion to postpone the application to the December 11, 2013 meeting. Ms. Stone seconded the motion.

The motion to postpone the application passed by a unanimous (6-0) vote.

The Chairman told the Commission that he would change the order of the agenda so that Ms. Dee Barrett could give her presentation.

II. OTHER BUSINESS

A. Presentation by Dee Barrett

Ms. Dee Barrett, Portsmouth High School Science Department Head, told the Commission that she taught Environmental Studies, Biology, and Ecology and had gone on sabbatical for the semester to work on the Citizens Science Initiative. She wanted to connect students with real scientists who worked on real projects. She had been working with the coastal research volunteers to collect information on vernal pools on selected properties, map the invasive species, and collect data from the rain garden, and she hoped to work with the Gundalow personnel to do water testing in the river. She said she would like to do more, and she thought the Commission might have ideas as to other things that her students could do during the nine-week period.

Chairman Miller asked her if she could give them more information on the timeframe of the project. Ms. Barrett stated that for a period of nine weeks, research would be incorporated into a lab, and the students would collect data from the rain garden and then input the data. She felt that it was important that the students speak with a scientist, so she hoped the Commission would have time to speak with them. She would videotape the Ecology class and review the lab results and then show the tape to the next group for consistency purposes, but for now she wanted her Environmental Studies class to go through more problem-based learning, and they would have nine weeks to work on the specific project that the scientist had in mind. Chairman Miller tried to think of scopes of projects and what would work. Ms. Barrett said that she would like it to be ongoing, year after year, for collecting historical data, taking photos of the vernal pools when they filled up and dried up, and developing a historical database. She also wanted to do the same thing with invasive species.

Chairman Miller asked if the field trips had to be in Portsmouth. Ms. Barrett said they did not. Ms. Tanner thought the City or the Commission had a list of locations where invasive species could be found. Ms. McMillan stated that the Commission had undertaken a natural resources assessment of the City's undeveloped lands. They hadn't really instituted a continuing stewardship on the larger, more resource-rich properties, but she wondered if they could work on some kind of activity on those properties. Ms. Barrett said she had worked with Mark West and Jim Gove before she became a teacher, so she had an advantage and it was something she wanted to get more involved in.

Chairman Miller said there was a stewardship core being developed in coastal New Hampshire. UNH was in the organizational phase, and they wanted to have a communal pool of volunteers trained in stewardship work, whether it was for invasive species removal or trail maintenance projects. They were perhaps not ready for students yet, but hopefully in the future they would have training available that the students could get involved in. Other projects and agencies were always looking for volunteers as well.

Ms. McMillan asked if there was any monitoring going on with the Great Bog. Mr. Britz stated that there was a group of volunteers that went out there quite often. One of the Commissioners

mentioned a scientist who was doing a project on songbirds but there was no baseline study. Chairman Miller said that there might be an opportunity with the New Hampshire Audubon Society. It was appropriate for students throughout the City to do bird watching and keep a record of bird species. He said that Don Green was the contact, a retired professor from UNH who did a lot of bird watching. Vice Chair Blanchard said the Commission had had a few applications relating to the power line corridor off the Spaulding Turnpike. When they had done site walks back there, they realized what an incredible wildlife corridor it was, and she didn't know if anyone had documented it or consistently monitored it.

Ms. McMillan asked if the whole class needed to be on the project. Ms. Barrett said they would break them up into teams to make it more manageable, a group of four students on each project. Ms. McMillan stated that she worked for the Department of Environmental Services, who had a program called Soak Up the Rain in New Hampshire, and they needed four or five people to help install a rain garden. They did it a few times a year and would need students in the early fall or late spring. The students were trained on how to install the rain garden and then did the actual installation. She told Ms. Barrett she could let her know what she found out.

Chairman Miller mentioned that Candace Dolan was the coordinator for an ongoing restoration plan. Ms. Barrett said she had been in touch with her and she would have her students go with her and gather data. She thanked the Commission for their time. Chairman Miller wished her good luck and told her that they would send her more ideas as they thought of them.

I. CONDITIONAL USE PERMIT APPLICATIONS (OLD BUSINESS) (cont'd)

3. Marjorie Street
Beth and Marco Gross-Santos, owners
JP Ventures, Applicant
Assessor Map 232, Lot 14
(This item was postponed at the October 9, 2013 meeting to the November 13, 2013 meeting.)

John Chagnon of Ambit Engineering and Jim Gove of Gove Environmental were present to speak to the application. Mr. Chagnon stated that they had revised plans, some of which were changes based on Mr. Britz's memo. The project had the same footprint, but the building would be moved from the north to the west. They had spoken with DPW about the necessary distance from the hydrant to the driveway. They had also talked about the underground infiltration under the south side of the house and they were asked why it couldn't be somewhere else, so they moved it, but they needed the room to get back there to maintain it and eventually it may have to be reconstructed to provide access. They redesigned the driveway and would install a rain garden. The trees that had been planted would be moved to an area behind the rain garden to leave the area open. The plan also showed a dedicated buffer area that they felt should be left untouched and in its natural state of grasses and shrubs. The developer wanted to replant the Arborvitae and mix them in with the trees. To sum it up, they had improved the buffer significantly since the first application. Mr. Chagnon pointed out the rain garden and the lot as well as the 33% portion of the lot area that was the closest to the wetland. He stated that he had

submitted a letter responding to the comments and hoped the Board had had a chance to look at it.

Mr. Gove passed out a letter to the Commission and stated that the wetland's primary function was a storm water detention area. It was totally surrounded by a sewer system and did not have any outlet. He believed that it was a good idea to minimize and move structures further away from the buffer because it was not a terrific wetland. Mr. Chagnon pointed out that they revised the construction sequence to include the removal and planting of the trees and he mentioned that the area to the left would be fenced off.

Vice Chair Blanchard asked Mr. Chagnon to address how much fill they would use. She was confused because the Commission had received three sets of iteration that day. She asked if it was still 450 cubic yards. Mr. Chagnon stated that he had calculated the fill based on the plan, and it was 450 cubic yards. The basement would require 200 cubic yards. The site sloped from the road down, and having a basement allowed that space from having to be filled. If they were to do a slab, a lot more dirt would have to be brought in to hold it up. Vice Chair Blanchard asked him to explain the function of the retaining stone wall and the grade. Mr. Chagnon stated that it was an existing wall on the abutting lot that spilled over to the property at a lower grade, and it retained some earth on the northwest side of the property.

Ms. Tanner asked if the garage was on a slab. Mr. Chagnon stated that it was, and the area would have fill underneath it that had been counted in the 450 cubic yards. Ms. Tanner remarked that it was a large space for the two-car garage and thought that the house could be moved even more. The parking area could be in front of the house instead of having a basement. Mr. Chagnon said they would still have to bring up the elevation. Ms. Tanner thought they would not need as much fill if they didn't have the garage. There was further discussion about not having a garage and having a parking area and having to fill up to get to the parking area. Ms. Tanner stated that the double garage was not in keeping with the rest of the neighborhood because it seemed overly large. Mr. Chagnon stated that it was a large lot and he showed her the tax map that indicated the lot was about 6,400 square feet larger than the other lots. Ms. Tanner agreed, but said it was buffer and the other lots were not. Mr. Chagnon stated that some lots further to the south were previously-constructed lots, and the reason the applicant was before the Commission was due to the buffer.

Ms. Stone thought the area was a disaster, even the property itself, and she mentioned the rocks, cinderblocks, and the purple loosestrife around the trees. She agreed that the functional value of the wetland made the Commission's assessment slightly different due to all the invasive species.

Ms. McMillan stated that she had a question about the management plan and the reference to maintaining the plants in the rain garden. She thought it would be better if it was organic or IPM instead of the least toxic system, but thought it would be preferable to do nothing. Another question she had pertained to the City's memo about exploring the size reduction of the house and asked Mr. Chagnon if he had discussed it with the potential owner. Mr. Chagnon stated that the purchaser was asked if he would be satisfied with a one-car garage and he was not in favor of it. The house size issue came back to the purpose and intent in treating the storm water runoff quality. The plan did a lot for it, and it was probably overkill. They could eliminate the rain

garden and expand the natural area, but they were focused on treatment and did not think that making the house a different size would make a difference in treatment and functional values.

Mr. Gove stated that they had talked about an evergreen buffer instead of the rain garden, and he did not think it would help with some of the other degradation. Mr. Vandermark asked whether, if the rain garden was not maintained, it made it worse than not doing a rain garden at all. Mr. Gove stated that a lot of sediment went into a rain garden, especially due to storm events, but rain gardens could be self-sufficient once they were set up. Chairman Miller stated that he had experience with rain gardens and knew that they worked well for a long time if installed correctly. If sediment got in, it would not infiltrate. He liked the idea of a rain garden and thought perhaps they needed a neighborhood workshop on wetland buffers to get a stewardship crew organized to clean up the area. A rain garden could get it started, and it was a visible BMP that the Commission was seeing more of in different places in Portsmouth.

Mr. Britz asked why the house was not all the way to the setback line. Mr. Chagnon stated that it was because of the hydrant, which they could move a few feet, but they needed access to the rear. There was more discussion about the retaining wall and not wanting to change the grade of it, and Mr. Chagnon referenced the building code that stated there should be a 6-foot area sloped away from the house. Ms. Tanner asked if a sump pump would be installed, and Mr. Chagnon said it was not needed.

The Commission talked about the previous motion to postpone the application and wondered if they needed to bring it back. Chairman Miller thought they had completed the motion because they had postponed it to the current meeting, so he suggested that they start a new motion.

Vice Chair Blanchard made a motion to approve the application as presented for purposes of discussion. Ms. Tanner seconded the motion.

Ms. Tanner said that she understood there was a lot of storm water treatment and thought it was good, but she thought the house and garage were too much for the lot, given that it was in the buffer. Mr. Chagnon asked her the number of feet she would suggest that the house could be moved from the line or pulled back. Mr. Britz stated that the reason he had previously suggested a one-car garage was because of the required setback for construction. The hydrant should not be the controlling factor. If the two-car garage was more important than the size of the house, he thought that moving the house over would be better. He said that he had recommended denial of the application because he had not felt that it had a lot of flexibility. He thought the lot was suited for a house. The wetland may not get any better, but he felt that a good wetland needed a buffer, and that was why he had suggested moving the garage and the driveway. The driveway could be closer to the boundary line. He asked if the garage had to be the size stated in the application. Mr. Chagnon stated that the garage would provide storage space that was critical to the owner, but perhaps they could take reduce it a few feet.

Chairman Miller stated that he was torn. He liked the rain garden and the infiltration. It was difficult for him to think the lot would not get developed, yet the lot was hard to develop due to the grade. He understood the wetland issue and hated to doom a wetland, yet he did not think that the Commission was doing that. They had an opportunity due to the impervious driveway,

the infiltration, and the rain garden along with the other improvements to turn the wetland around and set a new standard for the neighborhood. There was a balance. He loved to see empty lots but knew they were going to be developed eventually, so he accepted it. He liked what he saw in the application for the most part and didn't know how to make it any better and get a nice home in there.

Ms. Stone agreed that the size of the house fit the neighborhood, and she liked the location of the house and the infiltration. One improvement she thought of was to remove the invasive species in a certain corner. Mr. Gove pointed to an area on the plan and said he probably could suggest putting in a wetland mix, but the problem was that the wetland mix may not take that well. He had found that the robust silky dogwood and highbush blueberry were good choices because they got very thick and provided a habitat. It would be a good planting scheme to enhance the southeast corner, three feet on center, a half-and-half mix, and silky dogwood. He would leave the trees where they were. Chairman Miller stated that he liked the wetland mix but wondered if it would do any good, given that the invasive species were not being removed from the other lot.

Vice Chair Blanchard stated that she would amend the motion to recommend that there be some remediation on the southeast corner of the property that involved removal of invasive species and the planting of silky dogwood and highbush blueberry three feet on center and three feet on high. Ms. Stone seconded the motion.

Chairman Miller stated that the parcel had a specific direction that was important to do. He had the same reservations about the project's scope on the troubled lot, but there would be a house there. He was concerned about the rain garden because its maintenance did not seem to be noted anywhere, and that was a problem. He didn't know if it could be recorded in the deed, or if it was the homeowner's responsibility to maintain drainage structures. Mr. Chagnon stated that there was a storm water maintenance plan that included filling out logs and providing an annual report, and he said the Commission could make it part of the motion that approval be subject to the submission of those reports. If the City wasn't ready to get involved at that level, something could be included in the lot covenant that mentioned the responsibility of maintaining the storm water and invasive treatment devices.

Mr. Britz mentioned a maintenance checklist and how it would be done over the long term, which was the challenge with every site. Putting it in the motion to comply with the storm water and maintenance plan would be a good thing, but he wasn't sure about the enforcement of it, especially if the property changed hands. Perhaps a deed restriction filed with the Planning Board would work. Mr. Chagnon stated that, theoretically, the Commission should be granting a permit based on the submitted material, and if the plan were not followed in the future, it could be revoked, similar to what other states did with licensing permits. Chairman Miller noted that they did not have a long-term system in place to enforce it.

Vice Chair Blanchard thought it was appropriate to communicate the Commission's concern about the responsibility of the storm water maintenance and mitigation efforts on the property being included in the text of conveyance going forward. She didn't think it was part of their motion, but it could be a letter that accompanied it to the Planning Board. Mr. Britz stated that he could recommend to the Planning Board that the maintenance requirements be included in the

deed to make it easier to enforce. The Commission would be seeing more storm water issues in the future, so it would be a better case for an Ordinance. Chairman Miller liked the idea and agreed that they would be seeing more storm water issues, so they should get the dialog going and give it the level of attention that it needed.

Vice Chair Blanchard asked Ms. Good to read back the action item of recommendation, and Ms. Good read that Vice Chair Blanchard had recommended that there be some remediation on the southeast corner of the property that involved cleaning up invasive species and planting Silky Dogwood and High-bush Blueberry at three feet on center. Vice Chair Blanchard stated that she wanted to add that there should be at least three feet on high and the maintenance requirements should be included in the deed and contingent on having the storm water maintenance plan as part of the deed, the planting plan, the storm water management system, and the inspection and ongoing maintenance plan as provided by the applicant with the addition of the buffer plan as outlined. If the property changed hands, the provision would be in the deed and would protect the buyer and seller.

Ms. McMillan stated that they had an approval of two recommendations, the planting and invasive species removal, and then the incorporation of the deed relative to the storm water maintenance and mitigation systems as well as the plantings.

Ms. Tanner said she could not vote for it. Hearing no other discussion, Chairman Miller called for the vote.

The motion to recommend approval of the application to the Planning Board as presented with the following stipulations passed by a vote of 5-1 with Ms. Tanner voting in opposition:

- 1) That the applicant file the submitted Storm Water Management Inspection & Maintenance Plan at the registry of deeds with a requirement that it be adhered to for the current developer and by all future owners of this property,
- 2) That the applicant file a plan which includes:
 - removal of invasive species from the southeast corner of the property,
 - planting of silky dogwood (*Cornus amomum*) and highbush blueberry (*Vaccinium corymbosum*) in the wetland buffer in the southeast corner of the property. The planting of which should include planting plants a minimum height of 3 feet and spacing plants 3 feet on center.
 - maintenance of the required plantings to be adhered to by the developer and all future owners of the property.

II. OTHER BUSINESS (cont'd)

Chairman Miller talked about the Hodgson Brook cloudy water situation and stated that a geothermal well was in the process of being drilled. Mr. Britz stated that the pond had overflowed and they let it go. He talked about the process and said that it was a huge mess and installing the well was tricky.

Mr. Vandermark mentioned that he had been at the bog entrance a few days before and had seen a small sign that someone had scraped the letters off of and tried to change what it said. He had talked with a bow hunter who said he and other hunters had been helpful in preserving the bog and cleaning it up before the 'big shots' had gone in. The Commission had built a kiosk that could not be seen because it was too far down into the bog, but it needed to be moved closer to the road so that people could see it. Mr. Britz said that the Southeast Land Trust needed to move it, but the problem was who would take care of it. He thought it would be nice to get a volunteer group to maintain it. It was City-owned but the Southeast Land Trust had an easement and no staff to work on it.

Vice Chair Blanchard stated that the Recreation Department should be involved in passive recreation experiences on City-owned land. She thought it was a larger issue than playing fields, and the Commission should have a conversation with the Recreation Department. She was active with senior issues and knew that people wanted to be outdoors. The community had not given a lot of attention to that type of recreation. Chairman Miller stated that he could speak to the Recreation Board and would be willing to go to their meeting. He thought it was a great idea to get the dialog going. Vice Chair Blanchard said that the Commission should come up with items to discuss for the next meeting so that they could understand how the Recreation Department was organized and what resources they had in terms of personnel, volunteers, and so on. She said that 30% of the Portsmouth population was over 50 years old and liked to be outdoors. There were public lands with diminishing resources that could use the help of volunteers.

Vice Chair Blanchard also wanted to talk to the Tree Committee about using the resources of the new DPW arborist to help them do some stewardship on the more significant natural resource properties that had been identified. With Mr. Britz's help, they could understand how to start it up and do it every few years. They could make sure that the neighbors to the properties were being good stewards, and they could begin to institutionalize the City's responsibility of ownership. It was important for the encroachment issues that they start documenting some kind of review, especially now that they had an arborist. She had attended a few of the Tree Committee meetings and was impressed with the City's effort on its treescape, but she thought it was more of a stewardship piece on natural resources.

Ms. Tanner wished the Commission did not see permits that were speculative development, like the Islington Street and Borthwick Avenue road project. She hated to see a building go up and then sit empty, when the property had been destroyed for no real reason. Mr. Britz had mentioned that Oregon had a law whereby they did not grant permits for speculative projects, and Ms. Tanner thought the Commission should consider something like it for their Board meetings. Chairman Miller said they should start a list because they had learned hard lessons with buffers in the past. Vice Chair Blanchard thought it was a big environmental problem that ongoing work sites had abandoned piles of fill-in materials for years.

Ms. McMillan asked if the City had a consultant to meet the MS4 permit because she wanted to connect to it a bit. The City had to do some research and was coming up with a plan and a website for the regulations for buffers, and maybe they could work with the Commission. Mr.

Britz asked her if she meant that their contractor should talk to the Commission. He could give them an update on the findings of the contractor, but he didn't think they were coming up with a plan.

Ms. McMillan had another item to discuss. She stated that at the last meeting, Mr. Gove had said something about the BMP that was being constructed would treat the chloride and keep it from getting into the wetland. She said she had called him on it and he said he would bring in documentation to substantiate it. She said that she followed up with Rob Roseen who Mr. Gove said told him that. Mr. Roseen said he never said that and she wanted the minutes to reflect that the statement was not true. Chairman Miller thought that the best way to deal with it was to note it when the minutes are presented for approval and reference can be made at that time to the incorrect information given.

Chairman Miller told the Commission that Rich DiPentima had resigned due to family commitments for the next 8-10 months. Chairman Miller said he had encouraged Mr. DiPentima to resign and then come back when he could. Ms. Saunders would become a full member, and there was a vacancy for an alternate.

Vice Chair Blanchard mentioned that the Commission had talked about a memorial to Jim Horrigan relative to the Sagamore Creek property and asked if anything had been pursued. She thought the City was doing something. Ms. Tanner said it was suggested that the Little Harbor Trail be in honor of Alan Sturgis. Vice Chair Blanchard had thought there would be a commemorative stone or something similar. Mr. Britz said that he would look into it. Vice Chair Blanchard said that she knew the Commission had sent a letter thanking the City and Attorney Sullivan for their work in acquiring it. Mr. Britz said that they could later discuss a plaque to move it along.

III. ADJOURNMENT

At 5:05 p.m., it was moved, seconded, and passed unanimously to adjourn the meeting.

Respectfully submitted,

Joann Breault
Acting Conservation Commission Recording Secretary

These minutes were approved at the Conservation Commission meeting on May 14, 2014.