

MINUTES

CONSERVATION COMMISSION

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

3:30 P.M.

February 11, 2015

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

MEMBERS ABSENT: Alternate Matthew Cardin

ALSO PRESENT: Peter Britz, Environmental Planner

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I. CONDITIONAL USE PERMIT APPLICATIONS

1. Off Junkins Avenue and Rockland Street
City of Portsmouth, owner
Assessor Map 114, Lot 1

Mike Roether, Engineer, and Dan Hartrey, City of Portsmouth, were present to speak to the application. The proposal is to replace the tennis and basketball courts at South Mill Pond. The lighting at Leary Baseball field (new poles and lighting) would be replaced. Additional lighting at the dog park would also be installed. The total area of disturbance would be approximately 87,000 s.f. Approximately 5,000 s.f. of wetland buffer would be disturbed. The project will be 80' from the high tide line. Designs have yet to be finalized. Erosion control will include a silt fence and hay bales from the area close to Rockland Street toward Mill Pond to Leary Field – anything downstream. Any drainage or catch basins will have erosion control. This project is not an expansion, it is just a replacement. From the tennis courts everything flows toward South Mill Pond.

Chairman Miller inquired about storm drains.

Mr. Roether stated that there is a storm treatment system in the parking area.

Chairman Miller stated that it is always best to have an enhanced buffer (plantings), particularly with the water flow. For example, in this project, the water will flow from the courts to South Mill Pond. In this area, the grass is often mowed down to the pond. Plantings are better than lawn from a water quality and maintenance work load standpoint. This would constitute an enhanced buffer.

Mr. Roether stated that the applicant will take this into consideration.

Chairman Miller stated that this could potentially be an “Adopt-a-Spot.”

Mr. Roether asked if this would be a condition of the project moving forward.

Chairman Miller stated that it would not, however, it is highly recommended and he would like to see the City of Portsmouth serve as a role model in this regard.

Mr. Vandermark inquired as to why the fencing for the dog park is not more delineated on the drawings.

Mr. Roether stated that they do not have the back of the fence on the water side noted, but they do have the front noted. It will be a 4’ chainlink fence.

Ms. Stone asked the applicant to describe the Stormwater Treatment System.

Mr. Roether stated that the intent is not to add impervious areas or drainage structures. They do not plan to disturb any of these areas or structures either.

Vice Chairman Blanchard strongly agreed with the Chairman for the buffer on the side that goes to South Mill Pond. This is a large impervious area, and this is an opportunity to enhance that area, avert runoff and to see significant water quality improvement as a result.

Mr. Britz stated that regarding the Standard Dredge and Fill Application Off Junkins Avenue and Rockland Street, the applicant does not have the wetland permit application yet.

Chairman Miller asked if there were any further questions for the applicant. Hearing none, he asked for a motion.

Ms. Tanner made a motion to recommend approval of the application to the Planning Board. The motion was seconded by Ms. Stone. Ms. McMillan abstained.

Chairman Miller asked for discussion. Hearing no other discussion, Chairman Miller called for the vote. The motion to recommend approval of the application to the Planning Board as presented passed (6-0) vote with one abstention.

Chairman Miller offer to help the applicant in any way the Commission can without putting the burden of any cost on the taxpayer.

2. 2299 Lafayette Road
Rye Port Properties, LLC, owner
Assessor Map 272, Lot 10

Prior to the applicant's presentation, Ms. Tanner stated that the current wetland delineation differs significantly from the previous delineation. She is not certain which is the correct version.

Mr. Britz stated that he also noticed that the applicant's delineation line was quite different from that of the City. He would request an independent evaluation by a Wetland Scientist typically, but given the amount of snow it may not be practical for the next couple of months. He felt the line shouldn't necessarily change based on new guidelines.

Mark Gross with MHF Design, and Luke Hurley, Gove Environmental Services Inc. were present to speak to the application.

Mr. Hurley discussed the differences between the two delineations. He described soils with great detail noting what constituted a hydric/wetland, soil. He stated that prior to 2010, the 1987 delineation manual (Army Corps of Engineers manual) was used for delineation. The federal government began to see challenges with the old way of delineating and in October of 2010 developed new standards. The parcel in question was delineated in 2004. When Mr. Hurley conducted the delineation in 2014, he used the new standards. Although the hydrology, vegetation and soils had not changed on the site itself, the soil was no longer considered to be hydric (wetland) due to the standards and guidelines adopted in 2010. This is why the delineation seems different today.

Ms. Tanner stated that the point here really is that the letter from the Rockingham County Conservation District stated that Mr. Hurley used a different method in 2014 than what was recommended in determining wetland delineation.

Mr. Hurley stated that the wetlands on site are forested scrub/shrub wetlands and have not been disturbed/impacted so it is not a "problem delineation" and even though it has not been disturbed, the natural conditions may have changed enough to move or change the delineation. Mr. Hurley stated that they are not trying to change the rules to meet the needs of the clients.

Mr. Britz wondered whether an independent consultant could review Mr. Hurley's notes and make a determination regarding the wetland.

Mr. Gross stated that his client would prefer not to wait until May for an independent evaluation. They would like to move forward with the project as soon as possible. He suggested that the first step may be to have RCCD and Gove discuss the situation. If they are comfortable, perhaps they can move forward with the application as is. If they are not comfortable and would like to have an independent evaluation conducted, the applicant will revise the site to incorporate the old delineation. However, there would be more impact in the 100' buffer and they may have to put the sewer within the 50' limited cut area. There is an existing AUR (an area of restricted use due to contamination of the property) prior to this use caused by Advance Auto Parts. It was a Hood facility prior to Advance Auto Parts use of the site. Use of the property by Hood was more than 15 years ago. There has been some remediation implementation (dated 2010) at the site.

Chairman Miller stated that if the Planning Board and Mr. Hurley can come to some terms, the Conservation Commission would accept that. If that does not happen, an independent evaluation will be considered in order to resolve the issue.

Mr. Gross inquired that if RCCD and Gove can agree on the delineation, would this be satisfactory to the Commission in terms of going forward with the line they currently have. Even if the old delineation is used, there would be impact (pavement) within the 100' buffer. The amount of impact would be about the same with the old line.

Chairman Miller stated that a buffer is always preferable over treatment. Better water quality is always desirable.

Ms. Tanner does not approve of the level of activity in the buffer.

Mr. Gross stated that they would be happy to put in some wetland buffer plantings.

Chairman Miller stated that protection of the buffer is important because of water quality.

Vice Chairman Blanchard inquired about the number of parking spaces.

Mr. Gross stated they are required to have 30 spaces according to the City Zoning Ordinance. It does have a drive through.

Mr. Britz stated that there seems to be a lot of impervious surface/pavement. He inquired as to whether the site could be redesigned to include a more porous material. This along with the addition of plantings would go a long way to approval.

Mr. Gross stated that they can look into this; however, porous surfaces have their challenges given the amount of salt and sand used in New England. The site is challenging in the way it slopes. However, they will ensure that they will have a 0% increase in the rate of runoff.

Mr. Vandermark inquired as to how many fenced in AUR's there are in the city.

Mr. Britz stated that there are many, but there are fewer fenced in AUR's.

Mr. Gross stated that this one is fenced in for safety (children) reasons so people cannot access that area.

Mr. Britz stated that the applicant would be the one to pay for an independent evaluation. He would contact RCCD and would provide a contract that the City of Portsmouth, RCCD and the applicant would sign.

Ms. McMillan asked about photos of the site.

Mr. Gross and Mr. Hurley have some photos of the site that they will share.

Chairman Miller asked if there were any further questions for the applicant. Hearing none, Chairman Miller asked for a motion.

Ms. Tanner made a motion to postpone the application to the March 11th, 2015 Conservation Commission meeting. The motion was seconded by Ms. McMillan. Chairman Miller asked for discussion.

The Commission discussed and agreed that this would be an amended filing, not a new one, as long as it is postponed to the next meeting.

Hearing no other discussion, Chairman Miller called for the vote. The motion to postpone the application to the next Conservation Commission meeting passed by a unanimous (7-0) vote.

3. 6 Vine Street

John George Pappas Revocable Trust 2004, owner
Assessor Map 233, Lot 107

Steve Riker, Ambit Engineering, was present to speak to the application. He stated that he dropped off revised plans yesterday. He explained the revision. The site wetland system is part of a larger wetland system in between Middle Road and Islington Street. The applicant is proposing a single family home on the lot with a pervious patio and driveway. The site is currently (essentially) a mowed lot. The current driveway comes off of Vine Street and runs along the property along the north side. The driveway will be removed. There is also a small shed on site that will be removed. There is a typo on the letter that Mr. Riker included. The letter states that there is "1,037 s.f. of disturbance within the 100' wetland buffer." The correction is "1,280 s.f. of disturbance within the 100' wetland buffer". This number is reduced from 1,516 s.f. due to moving (what will be the new) structure on the property forward. There is 936 s.f. of temporary construction disturbance. There are trees right along the property line. Those trees will be saved. The only differences between this plan and the previous plan submitted is that the house has been moved forward and the house is now "6" Vine Street rather than "0" Vine Street.

Vice Chairman Blanchard inquired about gutters.

Mr. Riker stated that there is a Drip Apron proposed that would go around the house and that this would collect stormwater except where stormwater would fall onto the driveway.

Ms. Stone inquired about wetland vegetation. Currently it is all lawn except closer to the wooded edge.

Mr. Riker stated that they would not be opposed to additional plantings. They would plant where the Conservation Commission would like to see them. They would plant shrubs such as Northern Arrowwood. It is readily available, native and easy to maintain.

There were 4 additions to the plan requested by the Conservation Commission:

1) Move the house forward (resulting in a portion of the house within the 100' or less)

- 2) Show the area of mowing such that no mowing would occur within 50' of the edge of wetland.
- 3) Show existing trees on the plan and those (if any) slated for removal
- 4) Stormwater Management Plan to be reviewed by DPW

Moving the house forward and showing the area of mowing have been taken care of.

Chairman Miller would like to see a row of shrubbery along the edge to add some diversity in addition to the Northern Arrowwood. This could be a great stormwater catchment area.

Paul Mannle of 1490 Islington St is an abutter and was present to speak to the application. He is opposed to the Conditional Use Permit. He received the abutters notice in the mail today. His neighbor had received hers prior to this. He allowed Ambit Engineering on his property in December to delineate the wetlands. If Ambit Engineering came back in April, the wetland line would shift closer to their (the applicant's) property. The wetland line moves depending on the season. He is in disbelief that a variance was granted for a 5,000 s.f home on a 25,000 s.f. lot (when the allowance is 15,000 s.f.). The house is going to have only 10' on either side of the house before the property line. He and other abutters are 5' – 15' below the grade of the site (other abutter is Mary Beth Savage). This condition exists for much of Islington Street. The runoff from this property will affect the abutters. He stated that there is no Sugar Maple on the property but that the property is home to a 70-80' "Shagbark Black Walnut" which is probably listed on the University of NH big tree list. This tree was planted by the original owner who was the father of the current owner. Mr. Mannle emphasized that decisions made by the Conservation Commission will affect abutters.

Chairman Miller stated this is the reason for the Stormwater Management Plan. He understands the concerns of the abutter and appreciates his presence tonight.

The site elevation surveys were done by Ambit Engineering and the applicant confirmed that properties on Islington are in fact higher in elevation.

Vice Chairman Blanchard stated that there is no Landscape Plan and there is nothing depicting keeping, or removing, the trees.

Mr. Riker stated that the trees are in back of the lot and they are not planning to do anything with them and that is why nothing is depicted on the plans.

Ms. McMillan inquired about the Black Walnut tree, and secondly how many feet would the applicant be from large trees during construction.

Mr. Riker stated that he does not recall this particular tree. From the shed that is going to be removed, the larger trees would be 27' away and 40' away from the patio. From where the driveway is going to be removed, the trees would be 32'. There are also silt socks in this area. They are also happy to add bright orange construction fencing to keep operators out of this area.

Chairman Miller asked if there were any further questions for the applicant. Hearing none, Chairman Miller asked for a motion.

Vice Chairman Blanchard made a motion to postpone the application. The motion was seconded by Ms. McMillan. Chairman Miller asked for discussion.

Ms. Tanner felt that the application could be moved forward with stipulations.

Mr. Vandermark stated that he would be more comfortable with this if there was a Stormwater Management Plan.

Vice Chairman Blanchard stated that additional information on runoff control measures and plantings would be helpful. It is a tight fit and she feels that it is in everyone's best interest to resolve issues now. If they are not resolved sooner rather than later, this process could become much more complicated.

Ms. Stone stated that the application feels incomplete.

Hearing no other discussion, Chairman Miller called for the vote. The motion to recommend postponement of the application passed by a (6-1) vote (Chairman Miller voted against the motion).

4. Off Thaxter Road
Loughlin Revocable Trust, owner
Assessor Map 167, Lot 5

The applicant was not present.

Chairman Miller asked the Commission how they felt about moving forward given the applicant was not present.

There was some discussion about the application, however members of the Commission would like to hear from the applicant and hear options.

Ms. Tanner said that she did not understand why the entrance could not happen off of Sewell Road. Chairman Miller said that he thought there were a couple rain gardens that were blocking potential entrances. Mr. Britz added that the applicant would like the access to accommodate a pickup truck and a tractor. Currently there is a plywood bridge over a creek providing the access.

Mr. Britz thought that with regard to the possible entrance off of Sewall Road, a rain garden with an easement attached was restricting that approach. Ms. McMillan asked if the rain gardens (off Spinney Road and off Sewell Road) had been installed yet. Mr. Britz thought the one off Sewall Road had been installed but that did not mean it could not be moved.

Chairman Miller said that it sounded like it would be good to talk with the applicant. Ms. Tanner said she really wanted to know what the options were and Ms. McMillan had concern about the amount of impact involved.

Hearing no other questions, Chairman Miller asked for a motion.

Ms. Tanner made a motion to recommend postponement of the application to the March 11, 2015 meeting. The motion was seconded by Ms. McMillan.

Hearing no discussion, Chairman Miller called for the vote. The motion passed by a unanimous (7-0) vote.

II. STATE WETLANDS BUREAU PERMIT APPLICATIONS

- A. Standard Dredge and Fill Application
Off Junkins Avenue and Rockland Street
City of Portsmouth, owner
Assessor Map 114, Lot 1

(See 1.1 above for discussion and motion).

III. OTHER BUSINESS

1. Discussion on review process of Permit By Notification and Minimum Impact Expedited applications.

Mr. Britz reviewed the process: the application comes in from the applicant. Mr. Britz or Ms. Good will send an email to the entire Commission that there is a time and date to have read the permit. The Chairman will then review it. If the Chairman does not object, he will sign it. Signature of the Chairman must be had to commence work on the project. The Commission decided to keep the process as it currently is. This process allows the Conservation Commission an opportunity for input and Vice Chairman Blanchard stated that they don't want to lose the opportunity to improve something.

2. Annual membership dues, NH Association of Conservation Commissions - \$963.00

It was determined that no vote is needed. All Commission members approve of the membership dues.

IV. OTHER BUSINESS

Ms. Tanner attended a second meeting of the Mayor's Blue Ribbon Committee on Sagamore Creek today. The Committee would like a presentation from the Conservation Commission (to the City

Council) on what the Commission is doing in terms of land stewardship. The meetings are open to the public. The next scheduled meeting is March 4th, 7:30am.

V. ADJOURNMENT

At 5:41 p.m., it was moved, seconded, and passed unanimously to adjourn the meeting.

Respectfully Submitted,

Toni McLellan
Conservation Commission Recording Secretary

These minutes were approved at the Conservation Commission meeting on March 11, 2015.