

MINUTES

CONSERVATION COMMISSION

**1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE
EILEEN DONDERO FOLEY COUNCIL CHAMBERS**

3:30 p.m.

November 8, 2017

MEMBERS PRESENT: Vice Chairman MaryAnn Blanchard; Members Allison Tanner, Barbara McMillan, Samantha Collins; Alternates Adrienne Harrison, Ted Jankowski

MEMBERS ABSENT: Chairman Steve Miller; Kate Zamarchi

ALSO PRESENT: Peter Britz, Environmental Planner/Sustainability Coordinator

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Chairman Steve Miller was absent, and Vice-Chair Blanchard assumed his seat as Acting Chair.

Acting Chair welcomed the new member Ted Jankowski.

I. APPROVAL OF MINUTES

1. October 11, 2017

*Ms. McMillan moved to **approve** the October 11, 2017 minutes, seconded by Ms. Collins. The motion passed by unanimous vote, 6-0.*

II. CONDITIONAL USE PERMIT APPLICATIONS

- A. 1850 Woodbury Avenue
Goodman Family Real Estate Trust
Nancy L. Goodman, Trustee
Map 239, Lot 9
(This applicant has asked to postpone to the December 13, 2017 meeting.)

*It was moved, seconded, and passed to **postpone** the application to the December 13, 2017 meeting.*

- B. 36 Shaw Road (*Amendment*)
Gregory C. and Sandra M. DeSisto, owners
Assessor Map 223, Lot 22

The owner Sandra DeSisto was present to speak to the application and stated that she submitted an amendment because of issues that arose during site construction. She said she wanted to eliminate the gutters and one catch basin. She said the house would have a new foundation and that the storm water would be filtered through the foundation wall into the raingarden. She said she wanted to remove the catch basin request because the hardscape structure of the gravel in the retaining wall would manage the storm water. She said she would put plantings there instead. She said she also wanted to relocate a manhole further down the creek because she didn't want the existing spruce trees to be damaged, and that she wanted to eliminate the pervious parking area. She explained how they put in asphalt and reduced the amount of slope across the garage, so the asphalt portion was reconfigured.

Ms. Tanner noted that there was asphalt where there used to be pavers and asked whether it was marked. Ms. DeSisto pointed out where the area was and said she would submit an updated plan. Ms. Tanner said that, for comparison purposes, it would be good to see what was planned previously and what the actual square footage was. Ms. DeSisto said the paved area used to be 1,260 square feet along the border across the garage and was now about 60 square feet. She further explained that it was 60 feet taken from the driveway portion and added to the side. Ms. Tanner said those were estimates and asked what Ms. DeSisto planned to do with the paved area. Ms. DeSisto said it would be lawn area and that she could eventually put plantings there but preferred to plant along the shoreline.

Ms. Collins asked whether the proposed stone trench that started in the normal asphalt driveway would come around and border the pervious. Ms. DeSisto said that was still in place and bordered where the pavement currently ended. Ms. Harrison said the plan showed the rocks all the way around the border. Ms. DeSisto said that when they wrapped the small turnaround, they brought the trench to wrap around the asphalt. Ms. Harrison asked whether Manhole A and the catch basin that would be replaced with plantings were already done, and Ms. DeSisto agreed. Ms. McMillan asked whether the outlet for the catch basin was there. Ms. DeSisto said the riprap outlet was there and Manhole One had been relocated. She said the manhole and riprap outlet were moved further up the creek due to the spruce trees. She said there were no plantings there because they would damage the root system to the trees. She said the stone trench that went around the paved parking area went into the relocated outlet. Ms. McMillan asked whether the stone trench was extended or jogged. Ms. DeSisto said it went around the driveway. She said the pervious pavers always went into the outlet with a pipe, so now it was just pipe. Ms. Collins asked whether the pipe going to the proposed riprap outlet was still connected. Ms. DeSisto said it was, but at a different angle.

Ms. Harrison referred to the removal of the gutters and asked if there was crushed stone around the edge, with sand under it. Ms. DeSisto said there was. Ms. Harrison concluded that it had a traditional drip edge.

Acting Chair Blanchard asked Ms. DeSisto if she received the Staff Memo. Ms. DeSisto said she didn't. Acting Chair Blanchard said the memo included several comments relative to the need for more detail. She said the asphalt was one issue, and an updated plan was needed to show the changes. She said it was hard for the Commission to have a good idea just on the basis

of the applicant saying that the plan would be ready for the Planning Board. She said the plan wasn't complete.

Ms. Tanner moved to recommend approval of the application to the Planning Board as amended for purposes of discussion, seconded by Ms. Collins.

Ms. Tanner said she wasn't comfortable with having no numbers and that it was hard to interpret because the information was so dense. She said she knew there would be a new plan going before the Planning Board but didn't know how the Commission could recommend it without having more definitive information. Ms. McMillan agreed and said the plan was an old one with a lot of items that seemed to be after the fact, so it was hard to know what was done. Ms. Harrison agreed and said it would be nice to have more information on the driveway configuration and the planting plan for the area that was formerly pavers.

Acting Chair Blanchard said she'd be more comfortable postponing the application until the applicant had more information. Mr. Britz agreed, noting that the Planning Board wouldn't approve it without more detail and that they relied on the Commission's motion.

Ms. DeSisto said she could have the engineers update the plan without changing the numbers on the area of pavement. She asked whether she could provide an updated plan via an administrative type of approval so that she could make the next Planning Board meeting. She said her CUP would expire soon. Mr. Britz said that as long as Ms. DeSisto was clear on what the Commission wanted, she could make the December Planning Board meeting.

Ms. Tanner rescinded her motion, as did Ms. Collins.

*Ms. Tanner moved to **postpone** the application to the December 13, 2017 meeting or until the Commission received the correct details, seconded by Ms. Collins. The motion passed unanimously by a 6-0 vote.*

C. Martine Cottage Road
Carolyn McCombe Revocable Trust of 1998, Elizabeth Barker Berdge Revocable Trust of 1993, and Tim Barker, owners
Assessor Map 202, Lot 14

John Chagnon of Ambit Engineering was present on behalf of the applicant. He said they filed a CUP application to put a single-family residence on an existing lot of record. He distributed copies of the site plan to the Commission. He reviewed the site plan, noting that it was subdivided into two lots in 1981; Lot one was built on and Lot 2 was kept as an investment. He said it was taxed as a buildable lot at the time, but since then, the City had established a wetland buffer, and the applicant wanted to build on the lot and conform to the established criteria to get a CUP. He said the owner sold a portion of the land to the neighbor and that the portion was on the lot line relocation plan. The line was moved but didn't diminish the lot buildability.

Mr. Chagnon discussed the wetland areas and said they did a vernal pool study in one area and that two other pools were inside the wetland. He said there were two small areas that could be

built on, and another area outside the buffer close to the lot line, and they proposed to construct a property that would be in keeping with the neighborhood. He reviewed the lot, the wetland, the property line, and the existing structures in the area. He indicated that it was rural zoning. He discussed the walkway connector, the water flow, and the proposed raingarden. He said they did test pits and found suitable soil for a septic system. He said there was a 50-ft front setback and explained the layout, noting that the site had a wetland to the north and a change in elevation in one spot leading to the vernal pool. He further described the water elevation, water flow, raingarden, and how the water would be directed by a berm to one side of the property and then out to the wetlands. He said they were also doing infiltration strips.

Mr. Chagnon noted that the Commission had the wetland delineation, the vernal pool assessment, the lot line relocation plan, and a storm water management inspection and maintenance plan. He said the applicant proposed an advanced septic system. He emphasized that the impact to the buffer was minimized and said the best thing to do was to balance the need for the owner's privacy with the fact that it was in the buffer. He further explained how that complied with the ordinance in terms of low buffer impact.

Ms. Tanner said she was confused because the documentation indicated that the lots were different sizes. She said it was listed as a 5-acre residential lot, but Mr. Chagnon had said it was 3.27 acres. Mr. Chagnon said the 3.27 figure was the lot that was cut off in 1981 and was a different property. Ms. Tanner said the Commission was judging what was happening with the applicant's property and not the neighbor's. She said it was too much impervious surface added to an area completely in the buffer. Ms. Collins agreed and said the size of the house was in keeping with the character of the neighborhood, but the site had to be considered as well as the limitations to that site. She said it wasn't the same as all the other sites around it. Mr. Chagnon noted that the other sites were developed before the buffer requirement.

Acting Chair Blanchard said the project was significant because it was 24,000 square feet, almost all of which was in the buffer, and that she didn't see any significant mitigation for the destruction of the natural resources that would compensate for it. She said she thought there would be adverse impact to the wetland's functional features, in spite of the raingarden and storm mitigation. She was also concerned about the extent of alteration of the natural vegetative state or managed woodland that would be disturbed. She said she wasn't comfortable going forward and couldn't see any stipulations that would work for a project of that size.

Ms. Harrison noted that there was some information missing, like the lines for the setbacks from the vernal pools and from the wetlands on the actual plan. She wondered which trees would be removed and how they would be replaced within the buffer. Mr. Chagnon explained that the overflow from the raingarden would go down through the site, and anyone who put a house on the lot would have to deal with keeping that water flowing. Ms. McMillan said the water would be rerouted and asked if a State permit would be needed and if the raingarden would mitigate flow from the two buildings and the driveway and parking areas. Mr. Chagnon agreed, saying that the roof and pavement runoff would be provided for. Ms. McMillan asked how tall the berm would be for the water going around the house. Mr. Chagnon said it would be half a foot.

Ms. Tanner said she didn't see any numbers regarding how much impervious surface would be added to the property. Mr. Chagnon said it was a five-acre lot and an opportunity to protect 4-1/2 acres, which might be a form of mitigation to putting a house on a certain section of it. He said they could do a Function Evaluation Assessment and add buffer plantings. He suggested a site walk. Acting Chair Blanchard said she was familiar with the lot and didn't feel that a site walk would make a difference because of the project's impact. Ms. Tanner said she was opposed to the size of the project and didn't care how big the lot was. Ms. McMillan said it was a shame to put the house between the vernal pool and the wetland and that all the wild animals would want to go between the two. She said she couldn't see it working at all. Mr. Chagnon said the lot in the top left of the property would be an area to do a site walk. He said they could discuss shrinking down the impact if it was on the other side of the lot.

Ms. McMillan said she would favor a site walk if the project went forward. Ms. Tanner said she thought it might be reasonable to consider the upper left-hand corner of the lot. She suggested postponing the application until after the site walk and getting the necessary information.

Ms. Harrison said there could be a variance on the setback lines on the back corner, which would enable more of the property to be outside the buffer. Mr. Britz said the driveway does not need to comply with setback requirements.

Ms. Collins suggested postponing the application and doing a site walk to look at the upper back area. She asked that a plan be submitted for that area. She said she didn't think planting should be built in the requested area.

*Ms. Tanner moved to **postpone** the application until after the site walk, seconded by Mr. Jankowski. The motion passed unanimously by a vote of 6-0.*

Public Comment

Scott Osgood of 30 Martine Cottage Road said there was a dedicated system on the lot and that the vernal pool runoff ran down to the Simpson field, then ran through his field and would flood it more if it wasn't absorbed. He said the house could reduce some absorption and that the low fields flooded occasionally.

Robert Najjar said he was an abutter and that there were significant drainage issues that wouldn't be apparent that time of year during the site walk. He said it was a very thin layer, with rock under it, so it held a lot of water.

Mr. Britz said he would work out a time for the site walk with Mr. Chagnon.

III. STATE WETLANDS PERMIT APPLICATIONS

1. Standard Dredge and Fill Application
212 Walker Bungalow Road
Martin F. Kurowski and Cristina Galli, owners

Assessor Map 223, Lot 21

John Chagnon of Ambit Engineering was present on behalf of the applicant. He reviewed the application, saying that it was for a docking structure in Sagamore Creek that would impact the tidal buffer zone. He said the dock met the standards for width, length, and area of floats.

Ms. Harrison asked whether the abutter would be interested in having a common dock. Mr. Chagnon said he was pretty sure the abutter wanted his own dock.

Mr. Chagnon discussed the Natural Heritage Bureau report. Acting Chair Blanchard asked how much of it was seasonal and when the work would be done. He said the docks were usually left in. He referred to Sheet C3 for when the work would be done and said the floats would be removed in the winter and other seasonal structures stored.

Ms. McMillan asked how the dock would be accessed. Mr. Chagnon said there was a 10-ft access way from the land to the first part of the wharf, and a 6-ft path to the patio. Ms. McMillan said she wanted to know what the path would be made out of, how wide it would be, and what kind of vegetation would have to be cleared.

Ms. Collins asked what the water's depth was at low tide beneath the floats. Mr. Chagnon said it was about two feet. Ms. Collins concluded that the boats wouldn't be able to get out at low tide because there wouldn't be enough water to get to the channel. She asked whether everything could be moved back. Mr. Chagnon said moving it back would shorten the time that the applicant could use the dock. Ms. McMillan asked if there was anything showing the comparison of the length of the dock to others. Mr. Chagnon briefly discussed it and said the dock would be in line with the other docks.

Ms. Collins said the map showed the high tide and that it looked like the dock had the farthest reach past the mud flats. She said the other dock wouldn't have as much accessibility as what was proposed. Mr. Chagnon said the channel was not in the center of the water and that the docks on the south side wouldn't go over as much water because they were restricted to the setbacks of the channel. He said it was comparable to the nearby condominium's dock. It was further discussed.

Acting Chair Blanchard noted that some of questions involved the path to the structure, the length of the structure, and how much of it was going to be seasonal. She said normally the gangway was pulled on the pier and the floats had to be floated out. She asked who enforced the activity in Sagamore Creek. Mr. Britz said it was the harbormaster. Acting Chair Blanchard said she saw challenges to navigation or water safety. Mr. Chagnon said the Federal channel was at least 60 feet wide. Acting Chair Blanchard said she was worried about the access and the length as well as the impacts to the mudflats. She asked how much disturbance there would be and how much vegetation would have to be removed. Mr. Chagnon said it could be stipulated that it be limited to the 6-ft path. He said the new owners had to go through a DES process and probably wouldn't get the permit until April. Acting Chair Blanchard said she was concerned about the Portsmouth part of it. She thought the application should be postponed until Mr. Chagnon could return with details on the path and the remedial vegetation work.

Mr. Jankowski said he was concerned about the length and asked whether two floats were necessary. Ms. Tanner said the applicant wanted two slips. Ms. McMillan said she wanted it clarified that there would be no trees cut and that the buffer would not be impacted.

The Commission discussed postponing the application. They said they could send a letter to the State stating that they were concerned about the length and the amount of flow area and could also stipulate the dock's length, whether the path would involve paving or structure, and the size of floats. Mr. Britz said the path would need City and State permits if it was paved or had a structure on it. Ms. Harrison said she wasn't sure if she would support the dock because she thought it could set a precedent. Ms. Collins agreed and said she was concerned about the length and the number of piles. Mr. Jankowski said there would be 30 feet of floating dock, which would be different than the other docks and would take up a lot of surface area. Acting Chair Blanchard said that amount of structure could invade the public domain. Ms. Tanner said she could not support the project as presented.

*Ms. Tanner moved to **deny** approval of the application to the State Wetland Bureau as presented, seconded by Ms. Harrison. The motion passed unanimously by a vote of 6-0.*

The Commission members agreed that the floats were too large and would take up 30 feet of navigable creek. They were concerned with the length of the fixed pier, the number of piles, the access to the structure, and the fact that the waterway was very busy and had multiple recreation. They all agreed that there wasn't enough information.

2. Standard Dredge and Fill Application
540 Marcy Street
Eric and Johanna Landis, owners
Assessor Map 101, Lot 74

John Chagnon of Ambit Engineering was present on behalf of the applicant. He said the applicant purchased the home with the desire to put in a small covered porch expansion and a pervious patio, but it was discovered that the existing garage didn't have any State permits. He pointed out that the garage was part of the buffer zone.

Ms. Tanner asked whether the improvements had been done. Mr. Chagnon said that only the garage was improved and that it had all the City permits but not the State permits for being in the buffer zone. Ms. Tanner asked whether the improvements were part of the application, and Mr. Chagnon said he was pretty sure that they were. He said he didn't know how the applicants got the City building permit without a State permit. Mr. Britz said the covered porch didn't need anything from the City.

Acting Chair Blanchard asked what kind of project the new owners wanted to do and whether there was an opportunity for remediation. Mr. Chagnon said the owners offered to convert it to a native buffer planting area, where they would put in drip irrigation on the side of the porch and introduce infiltration techniques in the rear where the garage was. He said it would include a gutter on the front of the garage, and that a pipe would be dropped into a subsurface trench. He

said that the water would flow down the walkway into the drip apron. He said the porous paver patio was an infill between the landscaping area and the porch steps and was 316 square feet (22'x13'). Acting Chair Blanchard said the Commission didn't have a clear idea of how the garage fit in with connections to the house.

Ms. McMillan asked whether there was a planting plan or a list of buffer plantings. Mr. Chagnon said he didn't see it on the drawing. He noted that there was a photo of the garage and the house, and that the garage was entered via Marcy Street.

Ms. Collins said she was pleased that the large lawn would be converted into the native buffer, which she thought would outweigh the fact that the owners were adding more to the covered porch. She said the 316 square feet of the pervious pavement was large but mitigated by the native buffer plantings and the gutters and drip edge around the garage, and noted that the owners didn't do the garage. She said she commend the applicant for adding those improvements. Acting Chair Blanchard said the remediation piece was over 1,000 square feet on the existing lawn and that there wasn't a specific plan for that parcel. She said it could be a stipulation. Ms. Tanner said she agreed with Mr. Collins. Ms. McMillan asked whether the whole lawn would be dug up and native plants put in. Mr. Chagnon said the applicant agreed to do it. Ms. McMillan said it would be nice to have more information that would include a plan, a diagram, and a list of the plants.

Ms. Harrison asked whether the stairs would have a pathway through the native plantings, noting that the plan didn't show one. Mr. Chagnon said the plan showed landscaped areas interrupted by the steps. He said he would provide a path to the sidewalk that would be a pervious paver.

Acting Chair Blanchard said they needed a plan for the native planting lawn area and a path to the sidewalk through that area that was pervious pavers.

*Ms. McMillan moved to **recommend** approval of the application to the State Wetland Bureau with the following stipulations:*

- *That a plan for the native planting lawn area be provided; and*
- *That a path to the sidewalk through the area of pervious pavers be provided.*

Ms. Collins seconded the motion. The motion passed by unanimous vote, 6-0.

IV. OTHER BUSINESS

Mr. Jankowski said that the City Council passed a resolution on September 18 asking that the City limit their use of toxic pesticides on City property, and as part of that, they empowered the Conservation Commission to make recommendations. He said that an education program was held at the Portsmouth library on organic property maintenance and that they were looking at other educational opportunities. He said he started a non-profit in Portsmouth and wanted to present some ideas at the next meeting on the benefits of citizens not using synthetic products.

Acting Chair Blanchard said that, if there was time at the next meeting, she also wanted to have a discussion about after-the-fact permitting. She said it was a challenge that the Commission had to deal with and that the City didn't have good tools to tackle the problem. She said property owners and contractors should know whether or not properties were in the buffer zones. Ms. Harrison said the Commissioners had discussed it before, and she agreed that they should be proactive in educating people. Ms. Tanner said they previously sent out brochures a few times to property owners with buffer on their lands.

Acting Chair Blanchard also noted that the State was restricted on whether or not docks met requirements and had to be approved. She said they should think about having City dock requirements.

V. ADJOURNMENT

At 5:30 p.m., it was moved, seconded, and passed unanimously to adjourn the meeting.

Respectfully submitted,

Joann Breault
Acting Secretary

These minutes were approved at the Conservation Commission meeting on December 13, 2017.