

**MINUTES  
CONSERVATION COMMISSION**

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

**3:30 P.M.**

**September 08, 2021  
To be reconvened on  
September 15, 2021**

**MEMBERS PRESENT:** Chair Barbara McMillan; Vice Chair Samantha Collins; Members; Allison Tanner, Jessica Blasko, Andrew Samonas, Thaddeus Jankowski, and Henry Mellynychuk

**MEMBERS ABSENT:**

**ALSO PRESENT:** Peter Britz, Environmental Planner/Sustainability Coordinator

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**I. APPROVAL OF MINUTES**

1. August 11, 2021

Chairman McMillan commented that they did not receive the minutes to review and requested a motion to postpone the approval to the September 15, 2021, meeting.

Ms. Tanner moved to postpone to approval of the August 11, 2021, minutes to the September 15, 2021, meeting, seconded by Vice Chairman Collins.

**II. CONDITIONAL USE PERMIT APPLICATIONS (OLD BUSINESS)**

A. 0 Shearwater Drive (at the intersection of Portsmouth Boulevard and Market Street)  
Brora, LLC, Owner  
Assessor Map 217, Lot 2-1975

Attorney Justin Pasay, Jim Gove from Gove Environmental and Robert Ulig from Halverson Tighe and Bond spoke to the application. Mr. Pasay commented that they presented this application in June and had a robust discussion about the 2019 removal of invasive species and the mowing in the buffer. There has been significant collaboration between the applicant and the City to mitigate that. The plan implements erosion controls and a buffer delineation. This Commission requested more maintenance details and restoration plantings. They have worked to develop the restoration plantings and maintenance plan. There will be a 2-year oversight period for the plantings. The invasive plantings will continue to be removed.

Ms. Tanner commented that winter berry bushes need a male and female planted onsite for them to produce berries. Ms. Tanner questioned if both would be planted. Mr. Ulig confirmed that

would be part of the plant selection process. They will make sure there is an appropriate male to female ratio. There will be a male in each drift location.

Mr. Mellynchuk questioned what specialist would oversee the ecological restoration. Mr. Ulig responded that either Jim Gove or himself would oversee that process.

Mr. Samonas moved to recommended approval to the Planning Board as presented, seconded by Ms. Tanner. The motion passed unanimously by a 7-0 vote.

**B. REQUEST TO POSTPONE**

0 Patricia Drive  
Fritz Family Revocable Living Trust, Edgar H. Fritz Trustee, Owner  
Assessor Map 283, Lot 11

Ms. Tanner moved to postpone this application indefinitely, seconded by Mr. Mellynchuk. The motion passed unanimously by a 7-0 vote.

**III. CONDITIONAL USE PERMIT APPLICATIONS (NEW BUSINESS)**

1. 7 Curriers Cove  
Mary M. Griffin, Owner  
Assessor Map 204, lot 16

Eric Weinrieb from Altus Engineering spoke to the application. Mr. Weinrieb received a call about a failed culvert on the access drive about a month ago. It's a 36-inch cross culvert with a corrugated metal pipe. Sink holes have developed because the bottom is rotted. The soil is eroding. The repair will impact the wetland and the buffer. Applications have been filed with the City and DES. They have already received the shoreland permit and the wetland permit from the State. This CUP application is for 1,400 sf of disturbance. They will remove the existing pipe and put in a reinforced concrete pipe with riprap at the inlet and outlet. The inlet will have some mixed in loam to naturally reseed over it. The outlet will have new rip rap to prevent erosion. There is a lot of phragmites vegetation around the Eversource transformer that will be removed. That area will have some evergreens put in to mitigate it. This is a life safety issue, so work for it will begin immediately.

Mr. Jankowski questioned if the homeowner's association maintained the property. Mr. Weinrieb confirmed that they maintained the roadway, cul de sac, and shoulder. Mr. Jankowski commented that some of the lawns looked like they had been treated and questioned if they would be interested in an organic lawn care management program. Kit Bailey of 3 Currier Cove commented that they do not treat their lawn with chemicals, but she can only speak for her property.

Chairman McMillan commented that the properties in that area do have restrictions for fertilizers and pesticides in the regulations because they are along the water.

Chairman McMillan questioned if they would be putting in a conservation seed mix in the areas that have vegetation removed or are disturbed. Mr. Weinrieb responded that they would put lawn back where there was lawn, and the other areas will be conservation seed mix. Chairman McMillan cautioned against allowing invasive plants to come in the areas that are disturbed.

Vice Chairman Collins questioned why they chose to use a plunge pool instead of a vegetated channel. Mr. Weinrieb responded that there was a down gradient there, so no vegetation would take hold.

Mr. Jankowski commented that if neighbors were using treatments on their lawn, then it's an enforcement issue. Mr. Britz confirmed that he would investigate it.

Mr. Tanner moved to recommended approval to the Planning Board, seconded by Ms. Blasko with the following stipulation:

1. An evergreen shrub be planted in at least equal number to those being removed.

The motion passed unanimously by a 7-0 vote.

2. 797 Elwyn Road  
Omar R. Gordon Revocable Trust, Owner  
Carrol L. Gordon Revocable Trust, Owner  
Assessor Map 225, Lot 2

Micah Denner from Septic Designs of NH spoke to the application. The CUP was for a septic replacement and addition with a deck off the back of the house. The work is outside of the State setbacks, but it is within the City's buffer. The septic will be replaced to code. This is a non-conforming lot. It is narrow, so it doesn't have the normal setbacks.

Ms. Tanner questioned if there would be erosion control measures during construction. Mr. Denner responded that they could be included. Ms. Tanner noted that there should be drip edges or gutters on the house. Mr. Denner commented that there was currently an older drainage pipe that went to the side of the property. Mr. Denner confirmed that he would discuss including runoff control on the roof with the contractor. Ms. Tanner commented that they should replant the disturbed areas in the buffer. Mr. Denner confirmed that would be added to the plan. Currently it is all a giant yard. Ms. Tanner commented that there should be native plantings, like blueberry bushes, along the buffer.

Ms. Blasko commented that one plan said there were no additional bedrooms, but another plan showed they were adding a master bedroom. Mr. Denner responded that it was just a reallocation of space. The new septic will support a 3-bedroom house. It is slightly oversized but will accommodate a 2-bedroom house. Ms. Blasko commented that the plans made it look like a 3-bedroom house. Mr. Denner confirmed that he would double check with the architect.

Mr. Britz questioned if the State would approve the permit if the plan showed a three-bedroom house. Mr. Denner responded that the State reviews the septic plan and approves it based on the

septic size. They do not see a floor plan. If someone wanted to add a bedroom, then they would need to file an expansion of use application.

Mr. Mellynychuk noted that there was a garage door on the left of the addition and questioned if cars would be driving through the buffer to get to it. Mr. Denner responded that was an existing garage door and was used for landscape equipment access. There is an existing fence to prevent cars from driving down it.

Mr. Jankowski questioned if the owners would consider following the NOFA organic land management plan. Mr. Denner confirmed he would ask the owners if they were interested.

Chairman McMillan questioned if any trees would need to be cut for this project. Mr. Denner responded that no trees would need to be cut.

Chairman McMillan questioned if they got closure on the drip edge comment. Ms. Tanner noted that it may need to be a stipulation. Chairman McMillan noted that they should encourage more infiltration beyond that.

Mr. Mellynychuk commented that the owners should consider environmentally friendly materials when building the addition. They should keep contaminate levels as low as possible.

Vice Chairman Collins questioned what was going under the deck. Mr. Denner responded that he would need to talk to the builder are about that. There is no information on that because the deck is outside of the buffer. The septic and leach field are the only things inside the buffer.

Ms. Tanner moved to recommend approval to the Planning Board, seconded by Vice Chairman Collins with the following stipulations:

1. That erosion control measures be put in place during installation of the septic and construction of the addition.
2. That a drip edge along the foundation or other infiltration practice for stormwater be included in the plan to capture the roof runoff from the new addition.
3. That the applicant install a planting bed of native plants at least 300 square feet in size in the wetland buffer adjacent to the wetland edge.
4. While it is outside of the 100' buffer the Commission requests that the area under the deck be a porous material such as crushed stone or other material to infiltrate stormwater.
5. That the applicant would following NOFA standards for yard maintenance.

The motion passed unanimously by a 7-0 vote.

Mr. Denner requested clarification about what should go under the deck. Ms. Tanner responded that it should be something porous if possible.

Mr. Samonas commented that some of the stipulations were on the builder side not the septic design. Mr. Britz commented that the septic will need the State approval, but the wetland stipulations will be part of the building permit process. The conditions must be satisfied before the building permit is issued.

Chairman McMillan commented that there was still some confusion around the number of bedrooms. Mr. Samonas responded that the town and state will only recognize the bedrooms the septic is permitted for.

3. 137 Northwest Street  
Gregory J. & Amanda B. Morneault, Owners  
Assessor Map 122, Lot 2

John Chagnon from Ambit Engineering and owner Gregory Monreault spoke to the application. The application is for the subdivision of an existing lot. It is a long and narrow lot with a lot of frontage and plenty of area. This application went to the ZBA to get approval for some of the lot issues. The variances were granted. They have been to TAC and the subdivision application is pending with the Planning Board. Part of that application must show a house on the lot, and that's why this application is here. Because of the nature of the lot, they were asked to show what might be built on it. The subdivision plan shows how the lot is configured. The utilities cross over the lot. The City installed a new water main and an easement to the City was granted. The lot is narrow. The existing City pump station is partially on City property. It is surrounded by an existing gravel turn around. That is on the property of the applicant. The proposal is for a single-family residence. They will be removing the entirety of the existing gravel impervious turnaround. A 20-foot-wide paved turn out will be installed so plows can turn around at the end of the street. The driveway will be installed on the east side to minimize impact. The house cannot be shifted more because the two-car garage needs a minimum width of 22 feet. This plan meets the variant setbacks exactly. The house is sited to fit in the topography. The road is higher than the lot. There will be a stone drip apron for that side of the house. The sunroom will also have a drip apron. The plan will remove 1,940 sf of impervious surface in the buffer and place 1,633 sf feet of structure and pavement. There is an outfall pipe that outlets to a catch basin where the turnaround is proposed. That has eroded. It is adjacent to the salt marsh. The plan is to cut the pipe back to the existing slope and anchor the slope, so there will not be any more erosion. The total impact will be 4,843 sf. They have not applied to DES for the tidal buffer permit yet. Mr. Chagnon reviewed the criteria for approval. The first is that the land is reasonably suited to the use, activity, or alteration. Mr. Chagnon commented that this provides needed housing and has been reviewed by the ZBA. The second is that there is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity, or alteration. Mr. Chagnon commented that the structure cannot be further away from the resource due to the narrow lot. The outfall is already in the buffer and is in need of improvements. The third is that there will be no adverse impact on the wetland functional values of the site or surrounding properties. Mr. Chagnon commented that they don't believe the project will impact the existing wetland resource. The rip rap will provide protection, and they will remove some existing impervious surface, and add buffer plantings. Any changes to the paved turnaround would need concurrence from DPW. The City will maintain it. The fourth is that the alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals. Mr. Chagnon commented that they are removing vegetation to put the house further from the resource. They will be replacing the gravel area with

vegetation. The fifth is that the proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this Section. Mr. Chagnon commented that this is a reasonable project and it is balanced. The sixth is that any area within the vegetated buffer strip will be returned to a natural state to the extent feasible. Mr. Chagnon commented that they respect the resource and any area in the buffer will be returned to the natural state. The gravel turnaround will be returned to a vegetated state. The project meets the criteria.

Ms. Tanner commented that this is a sensitive site. There was a house put in on Martine Cottage Rd. that was also a sensitive property. There was a lot of negotiation about where to locate and build the house because it was a narrow and sensitive site. This house does not need to be in the buffer. The garage can be removed. It is not acceptable to have this much house in the buffer. There is no grandfathering here. New build in the buffer is not good. The garage could be flipped around to pull the house out of the buffer. They should try an alternative plan. Porous pavers for the driveway could be considered. It would be good to see a planting plan.

Mr. Samonas commented that the house would be less impactful if the garage was reoriented closer to the lot line. The applicant can ask for a variance rather than impact the wetland. Mr. Samonas questioned if the sunroom would be on a foundation or pilings. Mr. Chagnon responded that it would be on a foundation. It will be a heated livable space. Mr. Samonas commented that they could consider putting it on pilings instead.

Vice Chairman Collins questioned what would go in after the gravel turnaround was removed. Mr. Chagnon responded that it would be left to return to a natural state. They will put in some buffer plantings and identify what will be leftover for the occupants to use. Vice Chairman Collins clarified that some of it would be a recreation area. Mr. Chagnon confirmed that was correct. An early feedback comment from another board was that there was not any yard space for the family. Flipping in the garage to the other side provides a yard.

Ms. Tanner questioned if the cars would enter the garage straight on or on the side. Mr. Chagnon responded that the HDC does not like garage doors facing the street, so it would be on the side. Ms. Tanner commented that they may need to eliminate the garage. Mr. Chagnon noted that they could revisit this. An abutter put a garage in the buffer in the last 5 years or so. The driveway that was originally designed would cause lights to shine into the abutting house. The driveway was moved to the left side.

Mr. Samonas questioned where the flood zone line fell. Mr. Chagnon responded that the flood zone was elevation 8. They added two feet to get to 10 at the pump station. Mr. Samonas commented that the property was at elevation 12. If there were any changes to the FEMA lines, this property may be one of the first to be considered. It's important to be cognizant of the water source. It would be good to think of any way to reduce the risk and put the structure further away from the FEMA flood line. Mr. Chagnon commented that the ordinance requires a 2-foot extended flood zone. That is planning for the future. It is not in that zone, so it is being built in a safe way. Mr. Samonas responded that it was just something to consider.

Chairman McMillan requested the Mr. Britz speak to the recommendation. Mr. Britz responded that he recommended making the driveway porous because the ordinance says new surface in the buffer should be pervious. It is not a high value vegetated buffer. But there is room out of the buffer for new structure. The homeowner may have a size preference though. It is a big tradeoff with getting the gravel turnaround removed, but there would still be new structure and lawn in the buffer. Moving the driveway is a positive. It would be better if they could move more out.

Mr. Monreault commented that his neighbor put in a garage across the street. That was a new structure in the buffer. That went through this Commission and received approval. Mr. Monreault questioned if they did something differently. This plan is remediating the site and making a better situation than what exists today. There was no remediation across the street. Ms. Tanner responded that they would not be able to comment on that without looking at the specifics of the application. There may have been something to grandfather in or a prior impervious surface there. This application is a lot of new build in the buffer and that is not allowed. Mr. Monreault commented that this application was removing impervious surface and bettering the situation.

Ms. Tanner commented that she understood that they have received a lot of input from other boards, but this plan doesn't fit on this piece of property in the area that's buildable.

Mr. Chagnon commented that they should come back with a revised plan that addresses some of this feedback.

Vice Chairman Collins moved to recommend approval to the Planning Board, seconded by Mr. Samonas.

Vice Chairman Collins agreed that this plan needs to come back with a buffer landscaping plan. The turnaround should be porous. It would be good to see an alternate design of the home that takes it out of the buffer.

Chairman McMillan agreed. They need more information. Photos would be helpful. It would be good to try to move out of the buffer as much as possible.

Ms. Tanner commented that they should address what is going in the gravel area.

Mr. Samonas commented that it would be worth looking at shifting the house to the left.

Vice Chairman Collins withdrew her motion and Mr. Samonas withdrew his second.

Vice Chairman Collins moved to postpone this application to the October 13, 2021, Conservation Commission Meeting, seconded by Ms. Tanner.

Mr. Jankowski commented that he did not see a scenario where he would be comfortable approving a building here, so he would be voting against the motion.

The motion passed by a 6-1 vote. Mr. Jankowski opposed.



#### **IV. STATE WETLAND BUREAU APPLICATIONS (NEW BUSINESS)**

1. 82 Driftwood Lane  
Stephen J. Little & Rosemarie Golini, Owners  
Assessor Map 207, Lot 42

Christopher Albert owner of CSA Environmental Consultants spoke to the application. This application was approved last year. The State provided a list of items that needed to be completed. Mr. Albert missed the deadline for an extension. The project is to tear down the breezeway and a little brick patio. There is a slight reduction in impervious cover. It will go from 22.2% down to 22%. It's a straightforward plan. The work will happen in the front parking lot. There will be a silt sock.

Ms. Tanner questioned if the CUP was still in effect. Mr. Britz confirmed this was correct. This is just a recommendation to the State.

Mr. Britz requested clarification if all of the previous conditions would still apply. Mr. Albert confirmed that was correct. Chairman McMillan questioned if they could put an additional shrub on the water side of the project. Mr. Albert responded that there was already a big buffer line there now. The plan is to add plants to a 10 by 10 area. The owner has maintained a lot of vegetation out there.

Ms. Tanner commented that there was a lot of lawn in one area. Shrubs should be added there. Mr. Albert responded that there was always a lot of plantings to capture the runoff. Ms. Tanner responded that there was still extensive lawn and there should be more plantings in that area. There should be more plants between the house and the wharf. There is a lot of lawn area.

Chairman McMillan commented that they should double the size of the planting beds near the water. Mr. Albert responded that he did not want to limit the access to the dock, but they could add more perennials on the left.

Mr. Mellynychuk commented that there should be room to add some perennials and shrubs and still have a path next to the dock.

Ms. Tanner commented that the perennials on the left side of the picture should be doubled and there should be a small planting area by the wharf. Mr. Albert agreed.

Mr. Jankowski requested that they consider an organic lawn management program outlined by NOFA.

Ms. Tanner moved to recommend approval to the State Wetland Bureau, seconded by Vice Chairman Collins with the following recommendations:

1. That erosion controls be installed during work



2. That the applicant double the size of the perennial planting bed at the top of the wall closest to the water
3. That the applicant install a stone drip edge to infiltrate water from the new construction
4. That the applicant move the shrub from the front of the property to the rear or save the shrub from impacts of construction
5. That the applicant follow NOFA standards for yard maintenance.

The motion passed unanimously by a 7-0 vote.

## **V. OTHER BUSINESS**

1. Meeting to discuss the Organic Pesticide Outreach Program and Land Acquisitions, to be determined.

Chairman McMillan commented that this meeting was not scheduled yet. Mr. Britz noted that they could not get a date to work for everyone, so they are looking at new dates now. Izak Gilbo will redo the poll.

Mr. Jankowski commented that there are not any organic pesticides. It may make sense to rename it to organic land management.

Ms. Tanner questioned if they missed the window of opportunity for submitting to the CIP this year. Mr. Britz responded that it was just starting, so they still had time. Ms. Tanner questioned if they got an answer to their outstanding question about the deed on the Chase Home property. Mr. Jankowski commented that he talked to Brian Hart about the Elwyn Rd. property, and he does not want anything out there publicly. There is some discussion going on about it, so the Commission can pull back on that. Ms. Tanner commented that the third property they were interested in was the one going up for sale behind the I Heart Radio building. Mr. Jankowski commented that he called the broker and got the financials for that one. They could consider renting out a sign on the property to recoup some of the spending.

Mr. Samonas commented that the landowner does not see the entire paycheck on a billboard because they are master leased.

Chairman McMillan questioned if they should do anything before the next meeting. Ms. Tanner commented that someone should look up the status of conservation at the Chase Home. Mr. Britz confirmed that he would follow up.

Mr. Jankowski confirmed that he would forward the information from the real estate broker.

Ms. Tanner questioned if the City included any incentives to include renewable energy sources in development. Mr. Britz responded that they did not. Ms. Tanner commented that they may want to promote that. Mr. Samonas agreed that the City needed to be doing more to promote alternate energy sources. Mr. Samonas questioned how the zoning allows for a lot to be divided without considering the potential development on the wetland. Mr. Britz responded that they

could look at amending the subdivision regulations. An applicant cannot develop the lot without a wetland CUP.

Chairman McMillan commented that Tucker's Cove has been in the paper lately. It seems like they are trying to put a buffer in there, but the neighbors want vehicle access to the water. Mr. Britz commented that he has been involved in that project. The City has an easement to benefit the public and maintains a path to the water. It's to provide access to the water for launching a boat or fishing. The neighborhood is upset because they are concerned new plantings are blocking access. It has been cleared to make access. The neighbors think it should be wider, more accessible, and not grown over. The City and legal department think what the owner did is enough.

Mr. Jankowski commented that it would be nice to have more community gardens in the City. Mr. Britz agreed but the management of them could be problematic. There is a good spot near the park and ride and the City is supportive. Mr. Jankowski commented that the Market St. Ext. park would be a good location as well. Mr. Britz noted that there was not a lot of parking there. Mr. Samonas suggested that they could get a sponsor for the gardens.

## **VI. ADJOURNMENT**

Ms. Tanner moved to adjourn the meeting at 5:24 p.m., seconded by Ms. Blasko. The motion passed unanimously by a 7-0 vote.